

RECORD

AND
APPENDIX OF DOCUMENTS,

IN THE
CONJOINED PROCESSES OF SUSPENSION & INTERDICT, & DECLARATOR,
BETWEEN

The FACULTY of PHYSICIANS and SURGEONS of
GLASGOW,

AND

The UNIVERSITY of GLASGOW, and OTHERS.

24TH JUNE 1833.

HOPKIRK & IMLACH, W. S. *Agents for the Faculty.*

W. A. G. & R. ELLIS, W. S. *Agents for the University, &c.*

SIBLIOTH.
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R E C O R D.

No. I.

SUSPENSION and INTERDICT, the FACULTY of PHYSICIANS
and SURGEONS of Glasgow;

AGAINST

JOHN M'KINNON, Surgeon in Glasgow, and Others.

GEORGE, &c.—WHEREAS it is humbly meant and shewn to us, by our
loves, RICHARD MILLAR of Wellhouse, Doctor of Medicine, President
of the Faculty of Physicians and Surgeons in Glasgow, and Duncan
Blair, Surgeon in Glasgow, their visitor, for themselves, and in name and be-
half of the remanent members of the said faculty,—THAT they are under the
necessity of applying to our Lords of Council and Session, for letters of sus-
pension and interdict, at their instance, against certain persons after-named,
practising, or attempting to practise surgery and medicine, within the bounds
of the district after specified. It is necessary to explain the nature of the
complainers' right to take cognizance of the practitioners of surgery and medi-
cine within a certain district, and also the circumstances under which they
make the present application. King James the VIth issued a letter of gift
and commission, under the Privy Seal of the kingdom of Scotland, dated the
penult day of November 1599, and which bears as follows:—‘ James, by the
‘ grace of God, King of Scots, To all provosts, bailies, sheriffs, stewarts, or
‘ bailies of regalities, and other ministers of justice within the bounds follow-
‘ ing, and their deputies, and sundry others, our lieges and subjects, whom
‘ it efeirs, to whose knowledge these our letters shall come, Greeting.—Witt
‘ ye us, with advice of our Council, understanding the great abuses which
‘ has been committed in time bygone, and yet daily continues, by ignorant,
‘ unskilled, and unlearned persons, who, under colour of chirurgeons, abuses
‘ the people to their pleasure, passing away but trial or punishment, and

thereby destroys infinite number of our subjects, wherewith no order hath
 been taken in time bygone, especially within the burgh and barony of Glas-
 gow, Renfrew, Dunbritain, and our sheriffdoms of Clydsdale, Renfrew,
 Lanark, Kyle, Carrick, Air, and Cunningham: For avoiding of such incon-
 veniences, and for order to be taken in time coming, to have made, consti-
 tuted, and ordained, and, by the tenor of these our letters, makes, consti-
 tutes, and ordains Mr Peter Low, our chirurgeon, and chief chirurgeon to
 our dearest son the prince, with the assistance of Mr Robert Hamilton, pro-
 fessor of medicine, and their successors, indwellers in Glasgow, given and
 granted to them, and their successors, full power to call, summon, and con-
 veen before them, within the said burgh of Glasgow, or in any other of our
 said burghs, or publick places of the foresaid bounds, all persons professing
 or using the said art of chirurgery, and to examine them upon their litera-
 ture, knowledge, and practice; If they be found worthy to admit, allow
 and approve them, give them testimonials according to their art and know-
 ledge, that they shall be found worthy to exercise thereafter, receive their
 oath, authorise them as accords, and to discharge them to use any far-
 ther than they have knowledge passing their capacity, lest our subjects
 be abused; and, that every one cited report testimonials of the mi-
 nisters or elders, or magistrates of the parish where they dwell, of
 their life and conversations; and, in case they be contumacious, to
 be lawfully cited, every one to be unlawed in the sum of forty pounds, *toties*
quoties, half to the judge, and the other half to be at the visitor's pleasure.
 And, for payment thereof, the said Mr Peter and Mr Robert, as visitors, to
 have our other letters of horning on the party or magistrate, where the con-
 tumacious person dwells, charging them to poind, within twenty-four hours,
 under the pain of horning; and the party not having gear poindable, the
 magistrates, under the same pain, to incarcerate them while caution respon-
 sible be found, that the contumax person shall compear, such day and place
 as the said visitors shall appoint, giving trial of their qualifications.' And
 the said letter and commission farther bears, *inter alia*, that ' it shall be law-
 ful to the said visitors, with advice of their brethren, to make statutes for the
 common-weal of our subjects, anent the said arts and using thereof, faithfully,
 and the breachers thereof to be punished and unlawed, according to the fault.'
 And the said letter and commission farther, *inter alia*, bears, that ' It shall
 not be lawful to any manner of person within the said bounds, to exercise
 medicine without the testimonial of a famous university where medicine is
 taught, or the leave of Our, or Our Dearest Spouse's chief Medicinaries;
 and in case they failzie, it shall be lawful to the said visitors to challenge,
 pursue, and inhibit them from using and exercising the said arts of medicine,
 under the pain of forty pounds, to be distributed, the one half to the judge,
 the other half to the poor, *toties quoties*, if they be found exercising the
 same, ay and while they bring sufficient testimonials, as said is.' And the
 said letter and commission farther bears, *inter alia*, ' That no manner of per-
 son sell any druggs in the city of Glasgow, except the same be sighted by
 the said visitors, and by William Spang, apothecary, under pain of confisca-

‘*tion of the druggs.*’ And the said letter and commission, *inter alia*, gives and grants ‘ To the said visitors Indwellers in Glasgow, Professors of the said arts, and their brethren, present and to come, immunity and exemption of all weapons-showing, raids, hosts, bearing of armour, watching, warding, stenting, taxations, passing on assize, inquests in Justice-courts, Sheriff or Burrow courts, in actions criminal or civil, notwithstanding of our acts, laws, and constitutions thereof, excepting in giving their counsel, appertaining to the said arts : Ordaining all you, the foresaid Provosts, Bailies of Burrows, Sheriffs, Stewarts, Bailies of Regalities, and other Ministers of Justice, within in the said bounds, and your Deputies, to assist, fortify, and concur, and defend the said Visitors, and their Posterity, Professors of the said arts, and to put the said acts, made, and to be made, into execution, and our letters of our session be granted thereupon, to charge them for that effect, within twenty-four hours next, after ye be charged thereto :’—As the said letter of Gift and Commission, registered in the Register of the Privy Seal, more fully bears. The said Letter and Commission was presented to the Provost and Magistrates of Glasgow, who judicially ratified and promised to maintain the same, by their act dated 9th February 1600 ; Conform to the said Letter and Commission, and powers thereby conferred, thereafter the said brethren, and their successors, from time to time, made various rules and statutes, anent the said arts, and using thereof. The said Letter of Gift and Commission was ratified and approved in Parliament, by act of Charles the Second, with advice and consent of his Estates of Parliament, on the 11th day of September 1672 ; and the said brethren have been, for more than a century past, known and designated as the Faculty of Physicians and Surgeons in Glasgow, and have been acknowledged and recognized as such, in diverse judicial proceedings, as well as acts of adjournal, and of Parliament,—particularly the acts of adjournal 12th October 1709, and 24th March 1812, and the statute 55 Geo. III., c. 69, § 4 and 5. Ever since the date of the said Letter of Gift and Commission, the Complainers and their predecessors have enjoyed and exercised the privileges, rights, and powers thereby conferred ; and particularly, the rights and powers of making statutes anent the said arts, and using thereof, and of convening, examining, admitting, approving, and granting testimonials to such as were qualified, and of discharging and prohibiting such as were contumacious, and did not conform themselves to the said Letter and Rules made in virtue thereof. In the course of the seventeenth century, the Complainers’ Predecessors obtained bonds of desistence from a great number of persons, who had attempted to practise surgery or medicine in the different parts of the district specified in the said Letter of Gift and Commission. In the year 1679, their Predecessors, in virtue of their powers under the said Letter of Gift, made a bye-law, whereby they enacted, that no person should afterwards be admitted to practice surgery and pharmacy, within the city of Glasgow, unless he had either served an apprenticeship with a freeman or member of the Faculty, or was a freeman’s son, or son-in-law, with the qualifications suitable and necessary for either of the said arts ; provided always, that it should be in the power of the Magistrates of Glasgow, for the time, in case of deficiency of qualified per-

sons, surgeons in the place, to call one or more well experienced in the said arts, to reside in the city, the entrants, in that case, being always subject to the trial of the Faculty, for their qualifications, and paying their freedom fines, for the maintenance of the poor, according to their acts and statutes. Thereafter, in consequence of some proceedings on the part of the Magistrates, which were considered an infringement of that regulation, and of the rights of the Faculty, an action of declarator was raised at the instance of the complainers' predecessors, against the Magistrates of Glasgow, and, after a great deal of procedure, it was found and declared, on the 8th of July 1699, ' That the Visitor of the surgeons, at the time of the said Gift, and their Successors, ever since, and all time coming, had, and have right to make rules and statutes anent the dispensing of the said art, and to order the manner of the election of their successors, and also to make rules anent the admission of fit and qualified persons, for the practice of the said art and trade, and to debar all others from the exercise thereof, who are not duly admitted, conform to the said rules, and, particularly, to debar all such as have not served their apprenticeships within the town of Glasgow, or have not married the daughter of a freeman of the said incorporation, and also tried and found qualified, and to fine all unfreemen exercising the same, in the sum of £40 Scots, *toties quoties*, conform to the said Gift ; ' and also found and declared, ' that the Magistrates and Council of Glasgow have no right nor power to warrant or authorise any person to exercise surgery or pharmacy within the city of Glasgow, except such as are duly approven of by the visitors, conform to the rules and statutes made anent the admission of fit persons for that effect, which rules did require due trial of the qualifications of the persons to be admitted thereto : ' And farther, our said Lords found and declared, ' That warrant and allowance granted by the late Magistrates of Glasgow, in favour of any person whomsoever, who was not duly admitted nor tried, to set up shops and practise within the said burgh, is void and null, and that the said Magistrates and Council could not give to the said person legal warrant or power to set up a shop, or exercise surgery or pharmacy, except by consent of the Visitors, and conform to the rules appointed by them ; declaring always, with this express quality and condition, that the said persons, and their successors, shall, from time to time, provide the said Burgh of Glasgow, and liberties thereof, with a competent and sufficient number of qualified and sufficient persons, for the exercise and practice of the aforesaid art and trade, and that they enact nothing prejudicial to the weal of the said burgh. ' In the course of the 18th century, several instances occurred, in which the Faculty enforced their rights, by the intervention of courts of law, against persons practising or attempting to practise surgery, medicine, and pharmacy, without undergoing the requisite examinations before the Faculty, and obtaining the requisite testimonials. One instance may be mentioned. In the year 1790, Alexander Dunlop, Junior, attempted to practise medicine and surgery in Glasgow. He was called before the Faculty for examination, but refused to appear. An action was raised before the Magistrates of Glasgow in name of the Visitor and Collector to the Faculty,

to have him inhibited from practising medicine, until he should undergo an examination, and, in respect of his contumacy, to have him decerned in the sum of £40 Scots. A counter-action was raised by Dunlop. The Magistrates repelled the objections, pleaded to the said charter and act of Parliament, and sustained the privileges and powers granted to the Faculty, for the purposes, and to the effect pleaded for by them, and prohibited and discharged Dunlop from practising as a surgeon and physician, or exercising medicine, until he should first have been qualified so to do by the Faculty, in terms of the said charter and act of Parliament, and that under the penalty of £40 Scots for each offence, to be levied and applied, if incurred, as the Court should direct. Dunlop brought the decree of the Magistrates under review, by suspension. A strenuous litigation ensued. The reasons of suspension were finally repelled, and the sentence of the Magistrates affirmed. In the year 1812, the attention of the country, and, in particular, the attention of the Circuit-Court of Justiciary, having been directed to the character and qualifications of many of the medical practitioners of Glasgow and the neighbourhood, the complainants laid the original Letter of Gift or Commission, along with a Memorial, before the High Court of Justiciary, and called the attention of the Court to the nature of their rights and powers; when that High Court, by an act of adjournal, of date 24th March 1812, ‘recommend to the Faculty of Physicians and Surgeons in Glasgow, to persevere in the exercise of the powers conferred by the said Royal Charter and Parliamentary ratification, and, at the same time, the Court did, and hereby do, enjoin and require all Sheriffs, and other Magistrates, with their respective procurators-fiscal, within the limits mentioned in the foresaid Charter and Act of Parliament, to be aiding and assisting to the Memorialists (Faculty,) in the proper execution of the duty therein pointed out, and, on due information, to prosecute all persons illegally practising medicine or surgery, within their respective jurisdictions, in all time coming.’ And in the year 1814, an action was raised at the instance of Dr John Balmanno, president of the Faculty of Physicians and Surgeons of Glasgow, and Moses Gardner, Esq., their visitor, against James Steele, and a great many others, practising, or attempting to practise, surgery or pharmacy, without submitting to examination, and obtaining testimonials from the Faculty, as provided by the Letter of Gift of King James. Several of those persons allowed decree to pass against them, but some of those called as defenders, had obtained the degree of Doctor in Medicine from different famous Universities in Scotland, where medicine was taught, which, they contended, gave them a right to practice, not only medicine, but likewise surgery and pharmacy, within the district mentioned in the said letter, and they resisted the action upon that ground. But after full discussion, upon informations and otherwise, the Court held, that in regard to surgery and pharmacy, the Letter of Gift was absolute, and contained no exception in favour of any University degree; but that, in the clause of the letter relative to the practice of *medicine*, there was an exception in favour of persons holding the degree of Doctor of Medicine from a proper University, and that the arts were separate and distinct from each other. The Interlocutor

of the Lord Ordinary, which afterwards became the judgment of the Court, was in these terms :—‘Finds, that the titles produced by the pursuers, as explained and confirmed by the acts of possession condescended on by them, afford a sufficient title to carry on such an action as the present : Finds, that in virtue of the diplomas, and other testimonials produced by the defenders, James Steele, Jaines Watt, Peter M'Dougall, John Cross, and Andrew Reid, these parties are authorised, without challenge, to practice *medicine*, within the district specified in the Royal Grants, founded on by the pursuers : Finds, that no persons can, within the said district, practice surgery, or carry on the business of an Apothecary or Druggist, without such an examination as is there prescribed : Finds, that the defender, Roderick Grey, has been properly prohibited from carrying on the profession of medicine, or surgery, or that of an apothecary, as not being sufficiently qualified, and decerns and declares accordingly.’ Nevertheless, a great number of persons now practice, or attempt to practice, surgery and pharmacy, within the said district, while they refuse to submit themselves to examination, or to apply for, or obtain, testimonials from the Complainers and their Faculty, and likewise practice medicine, without any testimonial, or degree in medicine, from any University. In particular, the following persons, viz. :—John M’Kinnon, surgeon in Trongate of Glasgow, and in Laurieston ; Thomas Menzies, surgeon in Brighton of Glasgow ; Donald M’Coll, surgeon in Laurieston of Glasgow ; John M’Millan, Kirkstreet in Calton of Glasgow ; John Brown, Senior, surgeon in Kilwinning ; James M’Kinlay, surgeon in Rutherglen ; John Hall, surgeon in Ayr ; Philip M’Sorely, Surgeon in Ayr ; William Marshall, surgeon in Cambuslang ; William Stewart, surgeon in Gourock ; Alexander Spier, surgeon in Beith ; Thomas Millar, surgeon in Beith ; James Harvey, surgeon in Dalry ; James Storie, surgeon in Airdrie ; Jame Howie, surgeon in Kilwinning ; John Blacknie, surgeon in Busby ; Theophilus Jones, surgeon in Mearns ; Robert Douglas, surgeon in Kilmarnock ; Thomas Frame, surgeon in Galston ; James Stevenson, surgeon in Tarbolton ; and Robert Black, Surgeon in Dundonald ; all practising, or attempting to practise surgery, pharmacy, and medicine, and to compound and sell drugs in the respective places foreaid, which are all within the district specified in the Letter of Gift or Commission in the Complainers’ favour ; and, although all of these persons have been cited and convened before the Complainers and their Faculty for examination, they have failed to appear, and refuse to submit themselves to any examination, and consequently have not been admitted, allowed, and approved, and have not obtained testimonials of their art and knowledge, as required by the said Letter and Statute, neither have they obtained any degrees in medicine from any famous University, where medicine is taught. In these circumstances, the said persons OUGHT to be SUSPENDED and INTERDICTED from exercising surgery and pharmacy, within the district specified in the said Letter of Gift, aye and until they have submitted to be examined by the Faculty, and have been admitted, allowed, and approved, and have obtained testimonials from the Faculty, according to their art and knowledge, that they shall be

found worthy to exercise ; and they should be INTERDICTED, PROHIBITED, and DISCHARGED from practising medicine within the said district, aye and until they shall have obtained testimonials of their skill in medicine, from a famous University, wherein medicine is taught, and that for the following reasons :—
 1st, Because the said Letter of Gift and Ratification in Parliament, and the different acts and statutes, and authorities, and usage founded on, have established the right of the complainers and their Faculty to insist that no person shall practise surgery and pharmacy, or compound and sell drugs, within the district specified in the said Letter of Gift, without submitting to an examination before the complainers, and being admitted, allowed, and approved, and obtaining a testimonial from them of his qualifications. But the said persons complained on, have not submitted to any such examination, nor have they been admitted, approved, or allowed, nor have they obtained any such testimonial.
 2^d, Because no person is entitled to practise medicine within the said district, who has not obtained a testimonial or degree in medicine from a famous University, wherein medicine is taught, and the said persons complained on have not obtained such a degree : And the complainers have found sufficient caution, acted in the books of our Council and Session, for making payment to the said John M'Kinnon, and the other persons before-named, of whatever sum may be found due, in name of damages, on account of wrongous interdiciting, in case it shall be found by our Lords of Council and Session that they ought so to do, after discussing these our letters.—OUR WILL IS HEREFORÉ, &c.

No. II.

ANSWERS for JOHN M' MILLAN, Surgeon in Bridgeton, WILLIAM MARSHALL, Surgeon in Cambuslang, &c. ;

TO THE

REASONS of SUSPENSION for Dr RICHARD MILLAR, and DUNCAN BLAIR, calling themselves President and Visitor of the Faculty of Physicians and Surgeons of Glasgow.

THE University of Glasgow was erected by virtue of a Papal Bull issued by Pope Nicholas V. in the year 1450. This Bull, and all the powers and privileges thereby intended to be conferred upon the University, were ratified, both by various Royal grants, and also by Parliament ; and, in particular, by a charter of King James II. in the year 1453, and by another charter of King

James III. in the year 1472 ; but chiefly by what has been called the *Foundation Charter*, or *New Erection*, granted in the year 1577 by King James VI., enlarging and confirming the powers and privileges previously conferred ; which charter was afterwards confirmed by the King, and ratified by Parliament in the year 1587.

By these grants, this University was empowered to erect Professorships, and to grant degrees in all the Arts and Sciences ; and, in particular, to grant the degree of Doctor, or Master, in all such Arts or Sciences as should be taught at the University, to such students and others, as, after due examination, should be found worthy of this honour. In some of the grants, the power and privileges conferred upon this University, are declared to be the same with those enjoyed by the most ancient and famous Universities of Europe ; and reference is particularly made to the Universities of Bologna and Paris.

By virtue of these grants, the University of Glasgow has been in use to confer degrees in all arts and sciences upon those who, after due examination, have been found qualified to teach or practise those arts or sciences. These degrees have, for near three centuries, been recognised throughout Europe, as sufficient to entitle the persons holding them to practise and teach the arts and sciences to which they referred.

Since the foundation and endowment of a Professorship of Surgery by the Crown in the year 1817, the University of Glasgow, following the example of the Universities of Paris, Montpellier, Strasburgh, and other foreign Universities, after whose model it was formed, has thought it expedient to grant to proficients in Surgery, degrees or diplomas in that department. These degrees are granted after a rigid examination, and only on production of certificates of the attendance of the candidate for two courses, of six months each, at the class of Anatomy, two courses of Surgery, one of Chemistry, one of the Institutions of Medicine, one of Materia Medica, and an attendance of twelve months at a regular Hospital or Infirmary. The diplomas granted by this University in Surgery, have been more favourably regarded by the Legislature than the degrees or licenses of any other Colleges or Faculties, except those of the Colleges of Surgeons of London, Edinburgh, and Dublin, with which, by the 6th Geo. IV., cap. 116, § 12, they have been put upon an equal footing.

It is not, therefore, without some surprise, that the validity of the diplomas in Surgery, granted by the University of Glasgow, which are held by all the respondents, (and whereby each of them is created '*artium chirurgiæ, et obstetriciæ, et pharmaceutices, magistrum,*' and full power is given '*de rebus chirurgicis, obstetricis, et pharmaceuticis, legendi, docendi, consultandi, scribendi, et disputandi, omnes denique tam theorie chirurgicæ, quam praxeos, actus exercendi,*') should be called in question, and disputed by the suspenders.

It would seem that, long after the erection of the University of Glasgow, a charter or gift had been granted by King James the VI., which was afterwards ratified in Parliament, whereby, for the purpose of restraining *ignorant and unskilful persons* from practising Surgery within Glasgow, Renfrew,

Dumbarton, and some other adjoining districts, *Mr Robert Low, the King's Surgeon, and Mr Robert Hamilton, Professor of Medicine*, and their successors, were empowered to call before them all persons using the art of Surgery within these limits, to examine them as to their skill, and, if found qualified, to give them proper testimonials. If any person cited to appear before these Examinators should fail to appear, he was to be fined in £40 Scots. It appears from this document, that it was never intended to apply to any person who had enjoyed the benefit of a University education, because it contains an express exception in favour of all those who possess the '*Testimonial of ane famous University where Medicine is taught.*'

By the charter or grant now mentioned, *no Corporation is created*, although the suspenders are pleased to assume that this deed creates, or meant to create, some sort of Medical Corporation; whereas its sole object was to prevent unskilful and ignorant persons from practising surgery, by obliging all those who had not attended at a University, and obtained a testimonial of their qualifications, to submit to an examination before the King's Surgeon, and the Professor of Medicine in the University of Glasgow. No part of the grant contemplates *any monopoly* in favour of the Members of any Corporation; its sole object being, as it expressly states, to prevent injury to the lieges, by ignorant or unskilful persons taking upon them to act as surgeons or physicians.

The grant founded on by the suspenders, as already mentioned, makes an express exception in favour of the rights of Universities, and whether it had done so or not, this must have been implied; because such grant could never have been intended, nor could it have been effectual, for taking away the previous vested rights of the Universities. Besides, one of the persons appointed to examine those who applied for certificates of their fitness to practise surgery, was the Professor of Medicine in the University of Glasgow; and surely any person who holds a certificate granted by such Professor, and by the other Professors of the University, can never be classed with those ignorant or unqualified persons, against whom the grant founded on by the suspenders was directed.

The respondents have all obtained from the University of Glasgow, diplomas as Masters in Surgery, testifying that, after strict examination, they have been found qualified to practise and teach surgery in all its branches. If the suspenders mean to maintain, that the University has no power to grant such diplomas or testimonials, surely it would be necessary to discuss this matter in a question with the University itself. The respondents cannot be deprived of the benefit of their diplomas, or prohibited from acting agreeably to the powers thereby conferred, till it shall be ascertained that the University had no power to grant such testimonials.

In answer, therefore, to the reasons of suspension, the respondents have humbly to plead,—

1. That the suspenders have shewn no evidence of being entitled to prose-

cute as a Corporation ; and their title, accordingly, to sue as a body corporate, or to sue in the name of their President and Visitor, is denied.

2. That the suspenders are not the successors of Peter Low and Robert Hamilton mentioned in the original grant.

3. That even if they were, they are not entitled to require that any person who possesses the testimonial of a ‘ famous University where Medicine is ‘taught,’ shall submit to any examination of his qualifications before them,—the grant founded on expressly recognising the privileges of the Universities, and exempting all those who possess the testimonial of any University where medicine is taught, from the examination otherwise required, and authorising such persons to practise medicine without restraint.

4. That the respondents possess testimonials or diplomas from the University of Glasgow, as Masters in Surgery ; and that these testimonials are granted under the hands of the Professor of Medicine, and of the other Professors.

5. That, in terms of the grant founded on by the suspenders, no fees or perquisites of any kind are authorised to be levied for the examinations thereby prescribed ; nor is any interdict or other prohibition thereby authorised ; though a certain pecuniary penalty may be levied from those who fail to appear for examination, after being regularly cited. The grant, therefore, does not authorise the claims made by the suspenders.

In respect whereof, &c.

J. S. MORE.

No. III.

No. 29 of Process.

NOTE and INTERLOCUTOR pronounced by LORD CRINGLETIE, on advising Cases for the parties in this Cause, as to the Question of Title.

NOTE.—The Lord Ordinary has advised this case, and carefully perused all the documents referred to. That persons taking upon them to practise the arts of surgery, and profession of medicine, without being sufficiently qualified for them, ought to be prohibited, must be admitted by every one ; and, indeed, the Lord Ordinary has no doubt, that as a matter of police, it would be competent for Magistrates of towns and counties to interpose their authority to put a stop to a practice so dangerous to the

safety of the people. For that express purpose, the grant by King James the 6th, in 1599, was made and applied to Lanark, Dumbarton, Renfrew, and Ayrshires, and certainly it was not intended, nor can be construed to contain any monopoly or exclusive privilege of any sort, of preventing qualified persons from practising in that district. Its sole object was to give an exclusive privilege to Peter Low, his Majesty's surgeon, *with the assistance of Mr Robert Hamilton, professor of medicine, and their successors, indwellers in Glasgow,* to prevent all persons practising surgery, without allowance from them, or medicine, without the testimonial of a famous University. Why a testimonial from a famous University, ought not to have entitled surgeons, as well as physicians, to practise in the foresaid district, is difficult to explain; and certainly, now-a-days, it appears sufficiently absurd, that a surgeon, passed by the College of Surgeons of Edinburgh, shall be entitled to exercise his profession, without farther inquiry throughout all the other parts of Scotland, where corporation privileges do not interpose a prohibition; but that he shall not do so in said district, without an examination by the surgeons of Glasgow,—Still, however, *ita scripta est lex.* It appears to the Lord Ordinary, that although Peter Low is described as ‘our surgeon, and chief surgeon to our dearest son,’ he was then resident in Glasgow; and therefore, although he obtained this high sounding addition to his name, the grant was made to him as a surgeon in Glasgow, and he was to act with advice of Mr Hamilton, a professor of medicine, in other words, a physician, and Mr Low’s successors were to act with advice of Mr Hamilton’s successors, all being indwellers in Glasgow. There is no mention made of barbers in the grant, so that the circumstance of their being afterwards incorporated with the surgeons is of no importance; and these two, viz. Low and Hamilton, and their successors, are empowered, ‘*with the advice of their brethren, to make statutes for the common weal of our subjects anent the said arts and using thereof faithfully,*’ &c. The Lord Ordinary cannot construe this grant of the King in any other way than to consider it as made in favour of the surgeons and physicians of Glasgow living in that city. It was in favour of one surgeon and one physician at the beginning, *and their successors;* but these two, *with advice of their brethren,* were authorized to make laws for the better effectuating the salutary object of his Majcsty. They were, therefore, entitled to appoint visitors and officers to act for that purpose, and, in short, the delegation in view of the grant, gave power to assume the united body of physicians and surgeons, whether they are termed by the word Faculty or not. The Lord Ordinary does not consider them as a corporate body, as he sees no evidence whether they are or not. He looks on the suspender, Duncan Blair, surgeon in Glasow, as the visitor appointed by the united body, to be the successor of Peter Low, and the other suspender, Richard Millar, doctor of medicine, as successor of Mr Hamilton, and these two as entitled to act for the surgeons and physicians of Glasgow, whether incorporated or not. The Lerd Ordinary observes, that in the various suits raised by the medical body, they have described themselves differently. In the 1691, the declarator was at the instance of the *surgeons only;* but they were then a corporate body, and the object was to abate the pretensions of the Magistrates of Glasgow to license surgeons. The action against Calder, was a suspension raised by himself against Wallace, a surgeon and collector to the Faculty of Physicians and Surgeons—As they made no objection to their appearance, he certainly could make none to their title to appear, and the action went on. The summons in the declarator mentioned, appendix, p. 40, is not produced, whence it cannot be seen who were pursuers; but, in the action against Steele, it seems to have been at the instance of the preses, and visitor of the Faculty of Physicians and Surgeons. The Lord Ordinary thinks, on the whole, that the suspenders, in this case, are entitled to pursue, for which he has explained his reasons. The question he

has been discussing being altogether preliminary, he enters not at all into the merits, nor whether the suspenders are entitled to demand fees or dues from the chargers, or to an interdict.—Giving an interdict would be next to deciding the question on its merits. All these matters he reserves for deliberation after the record shall be closed.

INTERLOCUTOR.—*15th January 1828.*—The Lord Ordinary having advised the cases for the parties, with the writings referred to; Repels the objections to the title of the pursuers; sustains that title to insist in this action, and reserves the question of expenses until the Lord Ordinary shall learn from the chargers whether they acquiesce in this judgment or not,—and for that purpose, appoints this cause to be enrolled in the Lord Ordinary's roll of motions.

(Signed) J. WOLFE MURRAY.

22d January 1828.—In respect the chargers state that they are to acquiesce in the Lord Ordinary's interlocutor; supersedes consideration of the question of expenses till the issue of the cause; Appoints the suspenders, within three weeks from this date, to give in a condescendence in terms of the act of Parliament, and relative act of sederunt, of the facts they aver and offer to prove in support of their reasons of suspension, and when given in, allows the same to be seen and answered, within three weeks thereafter.

(Signed) J. WOLFE MURRAY.

No. IV.

Amended RE-REVISED CONDESCENDENCE for the Faculty of Physicians and Surgeons of Glasgow,—*Suspenders,*

AGAINST

JOHN M' MILLAN, Surgeon in Bridgeton, and others,—*Chargers;*

WITH

Amended RE-REVISED ANSWERS to said Amended RE-REVISED CONDESCENDENCE.

The Suspenders condescend and say,—

ARTICLE I. That the suspenders, the Faculty of Physicians and Surgeons

of Glasgow, are a lawful incorporation, with all the rights and privileges thereunto belonging, and have subsisted as such for upwards of two centuries. This Faculty or Incorporation was originally formed or constituted by, and in virtue of, a Royal Grant or Gift of King James VI., dated 29th November 1599, addressed to Mr Peter Low, Surgeon to the King, and Mr Robert Hamilton, which entrusted to them the constitution and formation of the corporation, and committed to them, as the original visitors, and Mr William Spang, apothecary, and their successors, indwellers in the city of Glasgow, various powers and duties therein set forth, particularly that of summoning before them all persons professing the art of *surgery*, and examining them, and if they are found worthy, to allow and approve them, and give them testimonial according to the art they should be found worthy to exercise, and receive their oaths and authorize them to practise. They are also enjoined to visit hurt, and murdered persons, to make statutes with the advice of their brethren. The Royal Grant also enjoins, that no person shall exercise medicine without the testimonial of a famous University where medicine is taught, and contains regulations with regard to the sale of drugs, poison, arsenic, and sublimate, and appoints the visitors with their brethren to meet at certain times, and confers immunities, exemptions, and other privileges on the visitors, indwellers of Glasgow, professors of these arts, and their brethren then present and to come. This Grant or Charter is addressed to all provosts, bailies, sheriffs, stewarts, and ministers of justice within the bounds of the burghs of Glasgow, Renfrew, and Dumbarton, and the sheriffdoms of Clydesdale, Renfrew, Lanark, Kyle, Carrick, Ayr, and Cunningham, and who are ordered to assist, fortify, concur, and defend the said visitors and their posterity, and to put the acts made and to be made in virtue of that grant into execution. This grant is produced and printed in the appendix, and along with the act of the Scots Parliament of 11th September 1672, ratifying the same, are referred to in like manner as if they were fully engrossed herein.

Ans. to ART. I. Denied that the Faculty of Physicians and Surgeons of Glasgow has subsisted for upwards of two centuries as a lawful incorporation. Denied that it was originally formed or constituted in the manner herein mentioned. Admitted that a Royal Grant was passed of the date herein mentioned, addressed to Mr Peter Low and Mr Robert Hamilton, committing to them certain powers, and imposing certain duties, part of which are herein set forth. Reference is hereby made to the letter itself. Denied that these persons were empowered to form a corporation.

ART. II. The royal grant above-specified was presented by Mr Low and Mr Hamilton, and Mr William Spang, the original visitors, and members of the incorporation nominated in the grant, to the Provost, Bailies, and Council of Glasgow, and they proceeded to admit other members or brethren, and along with them whose names are entered in the minutes of 3d June 1602, proceeded on that day to make bye-laws for the election of visitors, and

other officers, for the admission of apprentices, and for other matters relating to the corporation, and with the consent of the original visitors named in the grant, a bye-law was made that the visitors should be elected annually, in all time coming. The corporation at that time being fully constituted, elected clerks and officers, proceeded against members who had been disobedient, and made regulations with regard to apprentices; and they further, upon the 22d June 1602, admitted the Barbers as a pendicle of surgery at certain fees, and at the same time restricted them from meddling further with any thing belonging to surgery, as appears from the bye-law then made, and here specially referred to. And the said corporation being fully established and constituted as aforesaid, have, from the year 1602, down to the present time, exercised all the rights, privileges, and immunities conferred upon them by the above royal grant, and elected officers, admitted members, visited hurt and murdered persons, acquired and held lands and other subjects, used a common seal, exacted fees, and made bye-laws, as appears from the records which have been preserved, with the exception of those for some years subsequent to 1688, which were destroyed by fire. Their rights and privileges have also been confirmed by decreets of Courts of Justice from the year 1635, of which a list is hereto subjoined, down to the decision of the Court of Session on 26th February 1819, of which an extract is herewith produced, No. 91 of process.

No. 91 of Process. The Court of Session then, in a regular action of declarator brought by the incorporation, decided that the persons who obtained medical diplomas, were entitled to practise medicine alone, within the district specified in the royal grant; but that no person could, within the said district, practise surgery, or carry on the business of an apothecary, or druggist, without such an examination as is thereby prescribed. General signet letters, or letters of horning, were also raised against, and bonds of desistance granted by persons who had infringed upon the rights of the incorporation; and the suspenders refer to eighty-four bonds of desistance, from 1659 to 1701, of which a list is printed in the appendix, and also a further list from that period. The incorporation has also been recognised in acts of adjournal of the Court of Justiciary,

No. 69 of Process. and received recommendations from that Court to persevere in the exercise of the duties entrusted to them, and has been referred to by acts of the legislature.

55 Geo. III., chap. 59, sec. 4, 5, 9, and 12.

Ans. to ART. II. Admitted that the grant was presented by the original visitors therein nominated to the Provost, Baillies, and Council of Glasgow. Admitted that the said visitors, with the consent of certain other persons, made certain bye-laws in regard to the matters mentioned in this article,—and that certain clerks and officers were elected by them. Admitted, that at the date here mentioned, certain fees were fixed for the admission of barbers as a pendicle of surgery. Denied that the alleged incorporation was fully established and constituted under the said royal letter, or grant, or that from the year 1602, they have continued to exercise the rights, privileges, and immunities conferred, or to perform the duties imposed upon the visitors and their successors by the said royal grant, or to

hold lands and other subjects, use a common seal and exact fees. The statement that their rights and privileges have been confirmed by decrees of Courts of Justice, or recognised by acts of adjournal, or by the legislature, is not admitted. In particular, it is denied that the rights and privileges of the said pretended incorporation, to interfere with persons holding degrees in surgery from an University, have been confirmed by decrees of the Court of Session, or recognised by the acts of adjournal of the Court of Justiciary, or acknowledged by the legislature. Admitted that an action of declarator was instituted in the year 1814, but the respondents do not know the terms of the judgment that was pronounced, and do not admit it to have been as here stated. None of the individuals complained of in that case, had testimonials of their skill in surgery from any famous university. Admitted that letters of horning were raised, and bonds of desistance granted by certain persons ; but it is not admitted that they were granted to the extent mentioned in this article, or that the bonds referred to are true and genuine. None of them were taken or demanded from persons who held testimonials from a famous University.

ART. III. That in the year 1656, an application was made by the corporation to the Town-Council of Glasgow, for a seal of cause, or letter of deaconry, in favour of the surgeons and barbers, without prejudice to the old gift granted them by King James, in favour of the faculty ; and a letter of deaconry was granted to that effect upon the 16th August 1656, and the corporation declared in their minutes, that the same should be without prejudice to the grant made to them by King James. Provisions to that effect were made in the letter of deaconry, in particular, that no one should meddle with more points of surgery than they are found qualified for at their admission. Upon the 16th September 1707, the Town-Council of Glasgow pronounced a decree, finding that the barbers had no interest in the trial of the qualifications of the chirurgeons, and that the privileges they possessed were without prejudice of the liberties and privileges of the chirurgeons, granted them by the gift of King James VI. And on 16th September 1708, in an agreement subsequently entered into, the barbers acknowledged that the emoluments and casualties which fell to the incorporation within the said burgh for fines, and admitting and licensing surgeons under the grant of King James, belonged peculiarly to the surgeons, and that the barbers pretended no interest to them, as they did to those arising from the letter of deaconry which belonged to the surgeons and barbers *in cumulo*.

That thereafter, on 22d September 1722, the faculty, consisting of physicians, surgeons, and pharmacians in Glasgow, renounced and resigned all interest in the letter of deaconry which had been granted by the magistrates to them and the barbers, and betook themselves entirely to the rights under the royal grant or gift from King James, and to the execution of the trust thereby conferred upon them ; that the Magistrates accepted of said renunciation, and determined the stock which belonged to the surgeons and barbers respectively,

Minute of Faculty
4th August 1656.

Extract account of
Council, No. 74 of
Process.

No. 58 of Process.

Excerpt from Mi-
nute Book, 22d
September 1722.

No. 33 of Process.

Disposition and Re-nunciation the Barbers to the Surgeons, No. 34 of Process.

and a new letter of deaconry was granted to the barbers, who from that time have exercised their business without any connection with the faculty.

Ans. to ART. III. Admitted, that in the year 1656, a letter of deaconry was granted to the surgeons and barbers, burgesses of the burgh of Glasgow. Denied that this was without prejudice to the above-mentioned gift by King James. The other statements in regard to the letter of deaconry are denied. Admitted that the Town-Council pronounced a decree, containing *inter alia* the finding here stated. Admitted, that in 1708 an agreement was entered into as herein stated, in which the incorporation of barbers and surgeons is mentioned and considered as one corporation. Admitted, that in 1722 the incorporation was dissolved, and a separation took place between the surgeons and barbers. Denied that the former betook themselves to the rights under the royal grant, or to the execution of the powers contained in it. Admitted that a new letter of deaconry was granted to the barbers, who have since continued to exercise the rights and privileges of the corporation.

No. 67 of Process.

ART. IV. That the chargers have, with one exception hereafter referred to, refused to appear and undergo an examination in the art and calling of chirurgerie, as required by the aforesaid royal grant confirmed by statute, but on the contrary, have in defiance thereof practised, or attempted to practise, the said art of surgery within the bounds of the district specified in the grant, without licence or testimonial from the suspender's incorporation. One of the chargers, viz. John M'Kinnon, indeed appeared, and was three times examined, and found unqualified. He afterwards obtained the newly instituted degree or honour of Chirurgiæ Magister, or Master of Surgery, from the University of Glasgow. He was again thereafter examined by the faculty in surgery, but was found unqualified to practise surgery.

Ans. to ART. IV. Denied that the chargers have refused to undergo an examination as required by any royal grant or statute. Denied that any one of the chargers was examined, and found unqualified to practise surgery.

ART. V. That the University of Glasgow has only of late years, and since the year 1816, attempted illegally and contrary to former usage, and to the original constitution and rules of the University, to confer this pretended degree of 'Chirurgiæ Magister,' and no other university in the empire does now, or ever did, confer such a degree. If this statement is denied, the chargers are called upon to state at what former period it has been granted, and by what university it has ever been conferred. The chargers are called upon specially to confess or deny this article, or to state by separate averment when such degrees were granted, or pretensions made by the University of Glasgow. The counter-statement is denied.

Ans. to ART. V. Admitted that previous to the year 1816, the University of Glasgow did not exercise the right which belonged to it of conferring the degree of Master in Surgery. *Quoad ultra*, denied.

ART. VI. That the form and origin of the constitution of the Faculty is the same as that of similar foreign institutions, which were at that time established in different parts of Europe. That the statutes, bye-laws, or regulations passed by the Faculty or Incorporation constituted by the Grant, are not inconsistent with the provisions of that Grant,—that they are authorised by custom and prescription,—are consonant to the public laws and statutes,—and are for the common benefit of the lieges.

Ans. to ART. VI. Denied.

ART. VII. That the different members of the Faculty or Incorporation continue to practise in those departments upon which they have been examined and found qualified. Thus, Pharmacians and Midwives are limited to their respective arts, and Physicians, Members of Faculty, not Surgeons, cannot practise surgery.

Ans. to ART. VII. The respondents have no access to know, and do not admit, the truth of the statements contained in this article.

ART. VIII. That before the statute 1690, chapter 13, it was the practice for corporate bodies to exercise their rights and enforce their privileges by general letters of horning.

Ans. to ART. VIII. Admitted.

ART. IX. That this suspension is confined to preventing the individuals complained of practising without being duly examined. The suspenders deny that they exact heavy fees. The fees exacted for a licence to practise in the country are £5, 5s., and £21 for a licence to practise in Glasgow; while the fees for entering into the corporation and becoming a member of it, with the privileges of the library, and a certain proportion of the widow's fund, are £150. The fees exacted for licences, so far from having been higher than were absolutely necessary, have been on the whole found inadequate to enable the Faculty to prosecute unqualified persons, and perform the other duties enjoined by the charter, and recommended by the Court of Justiciary. The suspenders have produced the printed regulations, and are willing,—if it shall be thought competent,—to submit them to the consideration of the Court, and modify them as they shall direct. They have no wish to levy them with a view to the interest of their own society, either generally or individually, but are willing that the whole should be exclusively appropriated to the expenses necessary to carry the Grant into effect, which are very considerable.

No. 5 of Pro-
cess.

Ans. to ART. IX. Admitted that fees are exacted. The amount of those fees is not admitted to be correctly stated. *Quoad ultra*, denied.

RESPONDENTS STATEMENT OF FACTS,

AND

ANSWERS thereto for SUSPENDERS.

ART. I. The said letter of Gift by King James VI., in November 1599, bears to have been granted for the purpose of avoiding the inconvenience of ignorant, unskilled, and unlearned persons, who, under colour of chyrurgeons, abuses the people to their pleasure. It confers on Mr Peter Low and Mr Robert Hamilton, and their successors, full power to summon before them all persons professing or using the art of surgery within the limits therein mentioned, for the purpose of examining them on their literature, knowledge, and practice, and if they shall be found worthy, to give them testimonials according to their art and knowledge. The said letter declares, that it shall not be lawful to any manner of person within the said bounds, to exercise medicine without the testimonials of a famous University where medicine is taught, or the leave of the King or Queen's chief medicinaries. It authorises the persons therein appointed, to pursue and prohibit all others from exercising the arts of medicine under the pain of £40, *toties quoties*, aye and until they bring sufficient testimonials as aforesaid. The said letter contains no power to exact fees or sums of money for any examinations to be held under it, nor does it empower the persons therein named, and their successors, to examine persons holding testimonials from famous Universities.

Ans. to **ART. I.** The suspenders refer to the charter itself for every thing therein contained. They deny the special inferences set forth in this article as arising from it.

ART. II. The said letter of gift did not constitute a Faculty or incorporation. The rights and privileges conferred by that grant, have not been communicated to, and do not belong to the suspenders. The suspenders and their predecessors have not continued to discharge the duties enjoined by the grant, their funds were not collected in virtue of any powers contained in it, nor have they applied the funds collected by them to its purposes.

Ans. **ART. II.** Denied *in toto*. And reference is made to article 2d of the condescendence, and the cases there cited.

ART. III. The University of Glasgow was originally erected by virtue of a Papal Bull issued at the request of King James, in the year 1450. This Bull, and all the powers and privileges conferred upon the University, were ratified

by various Royal Grants, and also by act of Parliament ; and in particular, by what has been called ‘the foundation charter, or new erection,’ granted by King James VI. 1577, and afterwards confirmed by the King, and ratified by act of Parliament in 1587. By these grants, the University was vested with all the privileges and powers in regard to the conferring of degrees, which belonged to any of the foreign Universities ; and particularly to that of Bologna, amongst others, the privilege of granting testimonials, licenses, or brevia ‘*in quavis licita facultate*’ to be held as valid ‘*sine ulla alia examinatione*.’

Ans. to ART. III. The suspenders do not admit that the University of Glasgow is founded upon the Papal Bulls, and other Royal Grants mentioned in this article, and they call upon the chargers to produce the same. In particular, they deny the right of the University to grant testimonials, licenses, or brevia, for the practice of surgery, *sine ulla alia examinatione* ; or that any of these alleged grants, or the constitution of the University of Glasgow, or any usage following thereon, authorized the granting degrees of Chirurgiæ Magister in the manner in which they have been attempted to be granted since 1816 by the University of Glasgow. The suspenders refer to article 1st of their additional statement.

ART. IV. The power of granting degrees and licences in surgery was exercised by the University of Bologna, and by various other universities in Italy and elsewhere in Europe, under the constitutions bestowed upon them previous to the date of the erection of the University of Glasgow, and the said power continues to be exercised by many of them.

Ans. to ART. IV. Denied, specially so far as regards the University of Bologna, and generally, so far as regards other universities in Italy, and elsewhere.

ART. V. That in virtue of the powers vested in it, the University of Glasgow is in the use of granting testimonials, licences, diplomata or brevia, conferring the degree of Master in Surgery on persons educated in it, who have attended regular courses of medical and surgical lectures, and undergone a strict examination as to their qualification to practise surgery, in terms of the diplomata or brevia herewith produced.

Ans. to ART. V. Denied. The pretended diplomata and brevia, conferring the degree of Master in Surgery, have been granted contrary to the original constitution and rules of the University of Glasgow in the foundation charter, and other grants. They are not the acts of the University of Glasgow, and they are not sanctioned by usage or prescription.

ART. VI. That the privileges of the University of Glasgow, in regard to

the granting testimonials, brevia, licences, or degrees in surgery, have been recognised by the legislature of the United Kingdom.

Ans. to ART. VI. Denied.

ART. VII. That the chargers, after undergoing a strict examination by the University of Glasgow, received degrees as masters in surgery, declaring them fully qualified to practise Surgery, Pharmacy and Midwifery, and empowering them to practise the same. That they have at all times been ready to produce their brevia, licenses, or degrees, together with their certificates of a regular medical education in all its branches. They never refused to exhibit them to the suspenders. They are produced and lodged in process.

Ans. to ART. VII. Denied. The suspenders have always acknowledged the validity of the degrees *in medicina*, and any other certificates and testimonials from the University of Glasgow. They admit, as averred in article 5th of the Condescendence, that the University of Glasgow has, since 1816, granted alleged diplomas for the practice of surgery, some of which are produced, but they deny the right of the University to make that innovation. Denied that the chargers are entitled to practise surgery within the district specified in the Royal grant, without undergoing an examination before the suspenders' incorporation.

ART. VIII. That such surgeons as had received their education at a University, and had obtained diplomata or brevia from that University, declaring them qualified to practise surgery, have not been, according to the practice of any part of Europe, required to undergo a further examination, in order to qualify them to practise surgery, at least, within the bounds of the state or kingdom in which the University from which they obtained their degree was situated. Such persons were usually designated '*medico chirurgi*,' to distinguish them from 'barber surgeons,' who were an inferior grade, and who received no such University education or testimonials. The counter-statements contained in the suspenders' answer to this article are not admitted.

Ans. to ART. VIII. Denied, in terms of the counter-statement, and of the previous answers.

ART. IX. The suspenders are in the practice of exacting large fees or sums of money, as a condition of taking under examination, in order to their being licensed, any persons practising surgery in Glasgow, or its neighbourhood, or in the district specified in the letter of King James of 1599; and moreover, they require persons paying those fees, to subscribe a declaration that he has no claim in consequence thereof on the funds or property of the society. They regulate the amount of the said fees on arbitrary principles, raising or diminishing them, according as the person to be examined intends to practise in

Glasgow, or in the country. The fees exacted by them have not been levied during the period required to constitute prescriptive usage. They refuse to examine or grant licenses to qualified persons to practise in the country, unless in addition to paying the sum extorted from them, they also grant an obligation, binding themselves not to practise in the city or suburbs, without paying whatever additional sum of money the society shall be pleased to exact from town licentiates, at whatever period the said person may begin to practise in the city or suburbs.

They refuse to examine or license any individual, however qualified, if educated in Glasgow or Edinburgh, unless he has also paid the above sums to them, received their discharge for them, and granted bond in the terms above-mentioned not to interfere with their practice. The counter-statements in the answer to this article are denied.

Ans. to ART. IX. Denied. In particular, the suspenders deny that they have, in any instance, exacted any undue or exorbitant fees. On the contrary, in all instances, the fees they have exacted have been moderate and reasonable; they appear from the regulations, and were equitably made lower for country practitioners. They are confirmed by prescriptive usage. Reference is made to article 9th of the condescendence, and No. 5 of Process, the regulations produced.

ART. X. They refuse to receive as sufficient evidence of qualification to practise surgery, diplomas granted by Universities entitled to grant the same. These and various other powers, as specified in what they call the laws of their Faculty, are arrogated without any title, either under the letter granted by King James in 1599, or otherwise; in particular, the said powers and exactions are inconsistent with, and contrary to, the express object and provisions of the said letter.

Ans. to ART. X. Denied. The suspenders refer to Articles 1st and 6th of their condescendence.

ART. XI. The said Society did not attempt to exact any such fees and sums of money previously to the year 1785. The fees which they then began to exact, were comparatively trifling, and continued without alteration until the year 1811, when they were arbitrarily increased by the suspenders. The counter-statements in the answer to this article are denied.

Ans. to ART. XI. Denied. The Faculty have exacted fees from 1602 down to the present time, and they could not fulfil the purposes of the grant without doing so.

ART. XII. Various of the legal processes founded upon by the suspenders, contain distinct admissions, and the decrees therein proceed on the assumption,

that the said Society had no right to exact any fees or sums of money for granting licenses as aforesaid.

Ans. to ART. XII. Denied.

ART. XIII. For many years, few instances occurred in which the suspenders had an opportunity of making these exactions. Lately, these instances became more frequent ; and in the year 1824, the course of these exactions was interrupted, and the right to make them called in question, by a judicial process before the Magistrates of Glasgow.

Ans. to ART. XIII. Denied.

ART. XIV. The chargers have no objections, if it shall be thought necessary, to undergo an examination before the suspenders ; but they deny their liability to pay the sums exacted by the suspenders, or to come under the above-mentioned obligations required by them.

Ans. to ART. XIV. Denied. For the suspenders' statement on this point, they refer to article 9th of the condescendence. They have always been ready to examine such persons as present themselves to the incorporation, and to admit them when found qualified.

ART. XV. The suspenders have not performed the duties enjoined under the letter of 1599. They have endeavoured to convert powers originally bestowed on the persons mentioned in the said letter, and their successors for the public benefit, into a source of emolument to themselves. They suffer many quacks, who are ignorant and unskilful, and unlearned, to practise without any interference or molestation ;—these individuals being unable to pay the fines, and not interfering to any serious extent with the monopoly which the suspenders have attempted to establish. It is denied that the suspenders are annually at an expense exceeding the sums received for licenses in prosecuting quacks, and interdicting persons from practising.

Ans. to ART. XV. Denied. The suspenders have uniformly acted in terms of the grant, and fulfilled the duties thereby imposed. They are annually at an expense exceeding in amount the sums received for licenses, in prosecuting quacks, and interdicting the practice of every unskilful person within their jurisdiction. They deny that they have ever made the powers bestowed on them for the public benefit, a source of emolument to themselves, and they refer to their statement in article 9th of the condescendence.

ADDITIONAL STATEMENT FOR SUSPENDERS.

I. The University of Glasgow did not, at or prior to the Grant in favour of the Faculty in 1599, or during any of the two following centuries, interfere with the rights and privileges of the Faculty, by pretending to grant licences entitling persons to practise the art or calling of surgery. Neither was such a right exercised at Bologna, or transferred or adopted by the constitution of the University of Glasgow after the example of Bologna. The first time such an attempt was made by the University, was some time about the year 1816, when the University made an attempt to interfere with the rights and privileges of the Faculty, conferred by the charter and confirmed by prescription. The degrees in surgery which the professors gave, were not the legal acts of the University, or conform to the charters or constitution thereof, or confirmed by usage or prescription. The University of Paris, which the respondents formerly acknowledged that of Glasgow resembled, did not exercise or possess the power of licensing surgeons; but that right was, previous to the French Revolution, exercised by a Corporation or Faculty, constituted in nearly the same manner as the Faculty of Glasgow.

Ans. to ART. I. Admitted that the University of Glasgow did not exercise their right of granting degrees in surgery until the year 1816, when a professorship of surgery was instituted. *Quoad ultra,* denied.

ART. II. Before the Reformation, the practice of surgery never was sanctioned, but on the contrary, was expressly prohibited in Universities by Papal Bulls, and was at that time, and long after, considered inconsistent with the functions of Universities in Scotland, and other parts of Great Britain, which were to grant degrees in the sciences, and for teaching, or giving instructions in what was connected therewith. Until lately, surgery was considered as a practical art requiring manual dexterity, and a knowledge in many matters not connected with academical instruction.

Ans. to ART. II. Denied.

PLEAS IN LAW FOR SUSPENDERS.

I. The King, in making a letter authorising a corporation, may either grant it directly to certain individuals, or may appoint persons who are to found the corporation. He may thus legally empower a person or persons to designate the persons and powers of the corporation. In Scotland, a great proportion of the corporations, and even Royal Burghs, have been erected by delegation through churchmen, noblemen, or magistrates of burghs; and a grant to cer-

tain individuals who were the founders, and their successors, and to ‘visitors ‘ professors of the said art, and their brethren, present and to come,’ with directions to provosts, sheriffs, and other ministers of justice, to defend them and ‘*their posterity*,’ are sufficient to constitute an incorporation, when followed by regular corporate acts and records, confirmed by acts of Parliament and long usage. Blackstone, Vol. I., cap. 18, p. 472.—Kidd on Corporations, Vol. I., p. 50.

II. Where the object of the grant is to elect persons professing medical skill, and to exclude those who are not in possession of it, the most appropriate manner of forming such a corporation, is for the Crown to name one or more persons of acknowledged medical skill, who are to constitute and found the corporation, by examining and receiving others, and make them constituent members and founders of the corporation.

III. That a Royal Grant, establishing a corporation, is explained and defined by long usage;—and where that usage has been exercised for a period exceeding prescription, the right so exercised and established cannot be questioned,—at least where the rights of such a corporation have been sanctioned by repeated decrees of Courts of Justice, and confirmed by a decree of the Court of Session in an action of declarator, *in foro contensioso*, they cannot thereafter be questioned on the same or similar grounds.

IV. That where a corporation has been constituted by Royal Grant, and confirmed by act of Parliament, and by usage of one or more centuries, no other corporation, such as an University established by Royal Grant, or usage, is entitled, by any innovation, practice, or creation of new certificates, to interfere with, or derogate from the vested rights and privileges of that corporation. The Royal Grant in favour of the Faculty, is, in such circumstances, confirmed by the positive prescription; and if the University of Glasgow had ever possessed the power of granting such degrees in *Surgery*, they have lost such power, *non utendo*, by the negative prescription, from the period of the constitution of the University down to 1816.

V. That degrees granted by Universities, under whatever name, are entirely of an honorary nature, and confer no right to exercise a practical art, for which payment may be demanded, and an action maintained, though an honorary or fee may be voluntary given. The practical art of surgery, or of an apothecary, is one which entitles the person exercising it to maintain an action against his employers. In order to exercise it within these districts, he must undergo an examination before the Faculty or Corporation.—Sanders *v. Hewat*, 19th February 1822.

VI. That while it was the practice for corporations to assert their rights, by raising general letters of horning against all who interfered with their privileges, and by exacting bonds of desistance, such letters of horning afford evidence of the exercise of corporate privileges,—as well as decrees of the

Court of Session, and other competent courts, that being the usage of those times,—though the statute 1690, ch. 13, restrained such general letters in certain respects.

VII. That where a suspension is brought, for the purpose of ascertaining the rights of a corporation, to oblige persons desirous to practise the arts protected by the grant establishing it, to undergo an examination, there is no room for entering into questions with regard to the fees or the management of the corporation. If the conduct of the corporation in that, or in any other respect, is complained of, redress may be obtained by competent legal proceedings, if there is any just ground of complaint.

VIII. That although a letter of deaconry may be necessary to entitle a corporation to possess a share in the municipal government of a town, and in burgh elections, it is nevertheless a subordinate right. A direct grant from the Crown is a right of a higher nature, and not less valid, so far as it confers corporate privileges, and regards the admission of members, and the exclusion of unqualified persons, than a letter of deaconry, which may be granted by the Magistrates of a burgh, under the powers which they hold by delegation from the Crown. All corporate privileges are conferred on the ground of excluding unskilful or unqualified persons.

IX. That the letter of deaconry having been granted in favour of the surgeons and barbers, ‘without prejudice’ to the rights of the former, ‘under the old Gift granted to them by the deceased King James,’ could not, and did not, affect the rights and privileges of the faculty under the charter, nor confer any share thereof upon the barbers, who never pretended any interest therein.

X. That as the charter referred solely to the surgeons, physicians, and apothecaries of Glasgow, and conferred no rights nor privileges on the barbers, (who are not even mentioned therein,) the ratification thereof by Parliament, in the terms mentioned in the condescendence and answers, extended none of its powers nor privileges to the barbers, except as being a ‘pendicle of chirurgie,’ and entitled them to practise only such points of surgery as they were found qualified for after examination, according to the existing bye-laws and rules of the faculty or incorporation.

XI. That as the Gift or Royal Charter conferred the extensive powers and privileges therein mentioned on the Faculty, which extended over the district therein specified, while the powers and privileges conferred on the Burgh, or Trades Corporation of Surgeons and Barbers, by the letter of deaconry, extended only to the limits of the Royalty of Glasgow, while the latter was a subordinate right, and the faculty or corporation constituted by that charter, and the corporation constituted by that letter of deaconry, retained their respective rights.

XII. That the Royal Grant, or charter and ratification thereof by Parliament, and the different acts and statutes, and decrees and authorities, and usage and prescription founded on, having established the right of the suspenders' Faculty or incorporation, to insist that no person shall practise surgery and pharmacy, or compound and sell drugs, within the district specified in the said Royal Charter, without being examined by the Faculty, and being admitted, allowed, and approved, and obtaining a testimonial from them of his qualifications—or medicine, without the testimonial in medicine of a famous University, or leave granted in manner mentioned in the said charter,—the Faculty are entitled to have an interdict against the respondents, prohibiting them from using and exercising, within the said district, the said arts of surgery and pharmacy, or carrying on the business of an apothecary or druggist, until they have been so examined, admitted, and allowed, and have obtained the Faculty's testimonial,—or medicine, until they have obtained and produced the testimonial or diploma in medicine of a famous University.

In respect whereof, &c.

(Signed) JOHN A. MURRAY.

16th June 1832.—Subscribed in presence of the Lord Ordinary as finally adjusted.

(Signed) JOHN A. MURRAY.

Eo. die.—Authenticated by the Lord Ordinary.

(Signed) JOHN FULLERTON.

PLEAS IN LAW for RESPONDENTS.

I. The letter granted by King James VI., in 1599, and the act of the legislature confirming it, which were subsequent in date to the constitution of the University of Glasgow, were not intended to affect, and did not affect the right of that University, or of those who might obtain testimonials from it. It was not intended to constitute any monopoly in favour of the grantees and their successors. It was expressly given for the public benefit, and in order to prevent the inconveniences resulting from ignorant, unskilled, and unlearned persons, who, under colour of being surgeons, abused the people at their pleasure. Accordingly, while it enabled the individuals named in the Grant, and their successors, to call all such persons before them, and proceed against them in the manner thereby directed, it expressly exempted from the necessity of examination, all persons who possessed testimonials of their skill from any famous University where medicine is taught, the exemption not being confined to any particular branch of medicine, but extended to all the branches, of which surgery is, and was one of the most important.

II. The University of Glasgow having, by the terms of its constitution, been erected with the power of granting degrees or testimonials of skill in every Faculty, in the same manner as the University of Bologna, and other famous Universities in Italy, it was entitled to grant degrees or testimonials in surgery, entitling the persons on whom they were bestowed to practice surgery, without undergoing any other examination. Any grant therefore to a separate corporation, subsequent in date to the constitution of the University, must be so interpreted as to reserve the University's rights entire. These rights cannot be taken away by implication, or otherwise than by an express act of the Legislature; and it would have been incompetent for King James VI. to have infringed on them by his Royal Letter in 1599, if he had attempted to do it, which he did not.

III. The alleged Faculty of Physicians and Surgeons was not capable of acquiring, by grant or otherwise, any power of conferring degrees, or granting diplomas or licenses, except upon the principle that that body was made, to a certain extent, an academical institution, being constituted a faculty of the particular learned art or profession which they prosecute; and though not qualified to teach other branches of science, yet acknowledged to be capable of teaching one or more branches of medicine, and on that ground, of giving others a title to practise. But, upon this principle, a university which contains a faculty of medicine, must *a fortiori* possess the right of granting degrees in every branch of medicine, or licenses to individuals to teach all the different branches of medicine.

IV. No grant that the suspenders have, can, by implication, destroy or narrow the vested rights and privileges of the University of Glasgow to grant degrees and licenses to practise any branch of any of the Faculties of which the University is composed,—a right that results from the constitution of the University, and is inseparable from its general status and privileges.

V. Even supposing King James's letter had bestowed a power on the grantees, and their successors, to examine persons having testimonials from famous Universities, the powers and privileges bestowed by that letter having, with the consent of the grantees, been vested by the legislature in the corporation of barbers and surgeons,—that corporation becomes the sole depository of those powers and privileges, and could not, of their own authority, or without the consent of Parliament, delegate the powers and privileges to any other individuals, much less could they dissolve the corporation, and at the same time, transfer the powers and privileges to the suspenders' Society.

VI. The corporation of barbers and surgeons having been dissolved in the manner mentioned in the condescendence and answers, the suspenders are not entitled to plead the terms, either of the ratification by Parliament, or the letter of deaconry, which related exclusively to that corporation.

VII. Assuming that the powers and privileges conferred on the original

grantees, and their successors, by the letter 1599, did not merge in the Corporation of Barbers and Surgeons, there is no evidence to shew that the suspenders are the successors of the original grantees, or that they are entitled to exercise the powers and privileges vested in these persons, and their successors. And even supposing that the suspenders were the successors of those grantees, they have lost their privilege, by failing to perform the duties incumbent on them under the said letter.

VIII. Assuming that the suspenders were vested in the powers conferred by the letter 1599, the chargers, as possessing testimonials of their skill in surgery and pharmacy, from a famous University where medicine is taught, are entitled to practise these branches of medicine, without any further examination, and without being obliged to pay the fees, or subscribe the obligations required by the suspenders.

IX. Assuming that the University had no power to grant such testimonials, or that the suspenders, under the letter 1599, were entitled to disregard them, the suspenders would still be bound to examine the chargers in their skill and learning, and, in the event of their being found qualified, to grant them testimonials, without exacting fees for so doing, or requiring them to subscribe the obligations referred to in the condescendence and answers.

In respect whereof, &c.

(Signed) ALEX. E. MENTEITH.

16th June 1832.—Subscribed in presence of the Lord Ordinary, as finally adjusted.

(Signed) ALEX^R. E. MENTEITH.

Eo. die.—Authenticated by the Lord Ordinary.

(Signed) JOHN FULLERTON.

16th June 1832.—We, the Counsel for the parties in this cause, agree to hold the foregoing re-revised condescendence and note of pleas in law for the suspenders, No. 89 of process, and the re-revised answers and note of pleas in law for the chargers, No. 90 of process, as containing their whole respective averments in point of fact, and their whole respective pleas in law, and that the record shall now be closed.

(Signed) ALEX^R. E. MENTEITH.
JOHN A. MURRAY.

Eo. die.—In respect of the above-written signed minute, closes the record: Appoints parties' procurators to be ready to debate.

(Signed) JOHN FULLERTON.

30th June 1832.—The Lords remit the case to Lord Medwyn, in place of Lord Fullerton.

(Signed) D. BOYLE, I. P. D.

No. V.

LIST of DOCUMENTS specially referred to in the foregoing
CONDESCENDENCE for SUSPENDERS.

I. General Signet Letters, proceeding on decree of the Court of Session, dated 31st July 1635, in the name of 'our lovite, Mr James Hamiltoun, chyrurgyane, burges of our said burgh of Glasgow, present visitor for the said airt and calling of chyrurgerie within the samin burgh of Glasgow, for himself, and in name and behalf of the remanent bretheren and freemen of the said airt and calling, and their successors,' against 'All and sundry persons profcressing or using the saidis airtis of chirurgerie or medicine within our said burgh and baronic of Glasgow foresaid, and burghs of Renfrew, Dumbarton, Clydesdale, Lanark, Kyle, Carrick, and Cuninghame,' signcted 14th August 1635. Nos. 9 and 76 of Pro.

Eighty-four Bonds of Desistance, from 1659 to 1701, of which a list is printed in Appendix, page 49, and the original bonds, Nos. 62 and 63 of process, are produced.

Decree pronounced by the Town-Council of Glasgow, on 16th September 1707, regulating the privileges of the barbers, and declaring that these were held without prejudice to the liberties and privileges of the chyrurgeons, granted to them by the Gift of King James VI. No. 74 of Pro.

Act of the Magistrates of Glasgow, dated 9th May 1691, upon a remonstrance from the Faculty, rescinding an act they had previously passed, allowing a person of the name of Henry Marshall to practise in Glasgow, upon consideration of the Gift granted to the Surgeons, by King James, of 29th November 1599, and approving of an act made by the corporation, of 25th March 1679, for preventing strangers from practising the arts of surgery and pharmacy in Glasgow. Nos. 32 and 80 of Pro.

Decret of Declarator, Surgeons of Glasgow *against* the Magistrates and Town-Council of Glasgow, dated 28th July 1691, proceeding on the Gift of King James, and the ratification thereof, Appendix, p. 54, *et seq.* Principal Decree, No. 21 of Pro.

Bond of Desistance by Daniel Stewart, not to practise surgery or pharmacy, dated 13th October 1750. No. 64 of Pro.

Bond of Desistance by George Swan, not to practise physic, surgery, or pharmacy in Glasgow, dated 1st August 1785. No. 65 of Pro.

Decree, Robert Wallace, collector of the Faculty of Physicians and Surgeons of Glasgow, *against* James Calder, dated 20th November 1761, Appendix, p. 64, &c. No. 22 of Pro.

Decree of the Court of Session, pronounced by Lord Eskgrove, Ordinary, in action at the instance of the Faculty of Physicians and Surgeons *against* the Magistrates of Glasgow, and Turnbull, dated 16th November 1791. No. 69 of Pro.

Decree of the Magistrates of Glasgow in 1791, against Alexander Dunlop, proceeding on the Royal Grant in 1599, and ratification thereof by Parliament in 1672. No. 66 of Pro.

No. 75 of Pro.

Mr Dunlop presented a bill of suspension of this decree, and his reasons of suspension were repelled by the Court of Session.—Vide Extract minutes of Faculty, No. 75 of process.

No. 5 of Pro.

Proceedings in Court of Justiciary.

(1.) Act of Adjournal, 12th October 1709.

(2.) Do. do. 1812.

Excerpts from Information, in action declarator brought in name and behalf of the Preses and Visitor of the Physicians and Surgeons of Glasgow, for themselves, and in name and behalf of the other members of the Faculty, against James Steele, and other persons, who had obtained diplomas in medicine.

Notes of the Opinions of the Judges on advising that action, on 16th May 1817, and on 26th February 1819.

No. 91 of Pro.

Decree of declarator (in said action) of the Court of Session at the instance of the Faculty, and Dr John Balmanno, their preses, and Moses Gardner, their visitor, against Roderick Gray and others, dated 26th February 1819.

The respondents are called on to admit or deny the authenticity of these documents.

(Signed) JOHN A. MURRAY.

16. June 1832.—Subscribed in presence of the Lord Ordinary as finally adjusted.

(Signed) JOHN A. MURRAY.

APPEN-

A P P E N D I X.

No. I.

CHARTER by KING JAMES VI. to the FACULTY of PHYSICIANS and SURGEONS of Glasgow. No. 16. of Pro.

JAMES, be the grace of God, King of Scottis, to all Provostis, Baillies of Burrowis, Scheriffs, Stewartis, Baillies of Regalities, and otheris, ministeris of Justice within the boundis following, and their deputes, and all and sundrie otheris our Leidges and Subjectis whom it effeirs, quhas knowledge thir our letteris sal cume, Greiting, WIT YE US, with advise of oure counsell, understanding the grit abuses quhilk hes bene committed in time bygane, and zit daylie contineuis be ignorant, unskillit and unlearnit personis, quha, under the colour of chirurgeans, abusis the people to thair plesuir, passing away but tryel or punishment, and thairby destroyis infinite number of our subjects, quhairwith na ordour hes bene tane in tyme bigane, specially within oure burgh and baronic of Glasgow, Renfrew, Dumbartane, and oure sherifdomes of Clidsdale, Renfrew, Lanerk, Kyll, Carrick, Air and Cuninghame; For avoiding of sik inconvenientis, and for gude ordoure to be tane in tyme cuming, to have maid, constitut and ordanit, and be the tenoure of thir oure letteris, makis, constitutis, and ordainis Maister Peter Low, oure chirurgiane, and chief chirurgiane to oure dearest son the Prince, with the assistance of Maister Robert Hamilton, Professoure of medecine, and thair successouris, indwelleris of our citie of Glasgow, GEVAND and GRANTAND to thame and thair successoures, full power to call, summond, and convene before thame, within the said burgh of Glasgow, or any otheris of ouir said burrows or publict places of the foirsaid boundis, all personis *professing* or using the said art of chirurgie, to examine thame upon thair literature, knawledge and practize, gif they be fund wordie, to admit, allow, and approve thanie, give thame testimonial according to the airt and knawledge that they sal be fund wordie to exercise thaireftir, resave thair aithis, and authorize thanie as accordis, and to discharge thame to use onie farder nor they have knawledg passing thair capacity, laists our subjectis be abusit; and that every ane citat report testimonial of the minister and elders, or magistratis of the parochin whair-

they dwell, of thair life, and conversatione, and in case they be contumax, being lauchfullie citat, everie ane to be unlawit in the soume of fortie punds, *toties quoties*, half to the Judges, other half to be disponit at the visitoures pleasure, and for payment thairof, the said Mr Peter and Mr Robert, or visitoures, to have oure other letteris of horning, on the partie or magistrates whair the contemptuous person dwellis, chargeing thame to poind thairfor within twentie-four houris, under the pain of horning, and the partie not have- and geir poindable, the magistrates, under the same pain, to incarcerate thame, quhill cautioun responsall be fund, that the contumax persone shall compeir at sick day and place as the saidis visitouris sall appoint, gevand trial of their qualifications: *Nixt*, That the saidis visitouris sall visit every hurt, murtherit, poisonit, or onie other persoun tane awa extraordinarily, and to report to the magistratis of the fact as it is: *Thirdlie*, That it sall be leisum to the saidis visitouris, with the advice of thair bretheren, to make statutis for the common well of oure subjectis, anent the saidis airtis, and using thairof faithfullie, and the braikeris thairof to be punishit and unlawit be the visitouris according to thair falt: *Fordlie*, It sal not be leisum to onie manner of personis within the foresaidis boundis to exercise medicine without ane testimonial of ane famous universitie quhair medicine is taught, or at the leave of oure and oure dearest spouse chief medicinaris, and in case they failzie, it sall be leisum to the saidis visitouris to challenge, perseu and inhibit thame throw useing and exercising of the said airt of medicine, under the pain of fortie punds, to be distributed, half to the judges, half to the pure, *toties quoties*, they be fund in useing and exercising of the same, ay and quhill they bring sufficient testimonial as said is: *Fyfthlie*, That na manir of personis sell onie droggis within the citie of Glasgow, except the sam be sichtit be the saidis visitouris, and be William Spang, apothecar, under the pane of confiscatioun of the droggis: *Sextlie*, That name sell rattoun poison, asenick, or sublemente, under the pane of ane hundred merkis, except onlie the apothecaries who sall be bound to take cautioun of the byaris, for coast, scaith, and damage: *Seventlie*, That the saidis visitouris, with thair bretheren and successouris, sall convene every first Monday of ilk moneth at some convenient place, to visite and give counsill to pure disasit folks gratis: And *last of all*, Gevand and Grantand to the saidis visitouris, indwellers of Glasgow, *professouris* of the saidis airtis, and thair bretheren, present and to cume, immunite and exemption from all wappin shawings, raidis, oistis, beiring of armoir, watching, wairding, stenting taxationis, passing on assizes, inquestis, justice courtis, scherriff or burrow courtis, in actions criminal or civil, notwithstanding of oure actis, lawis, and constitutionis thairof, except in giving their counsill in materis appertaining to the saidis airtis: **ORDAINING** you, all the foresaidis provestis, baillies of burrowis, sheriffis, stewartis, baillies of regalities, and otheris ministeris of justice, within the saidis boundis, and zoure deputis, to assist, fortifie, concur and defend the saidis visitouris, and thair posteritie, Professouris of the saidis artis, and put the saidis acts, maid and to be maid, to execution; and that oure other letteris of our Session be granted thereupon to charge thame to that effect within twentie-four houris nixt after they be chargit thairto. **GEVIN** under

oure previe seall, at Haliruid-house, the penult day of November, the year of God iavc. and fourscore nynetein zeiris, and of oure reign the thirty-three year.

*Per Signaturam manu S.
D. N. Regis nec non mani-
bus Dominorum Ducas
Lennocæ, Thesaurarij ac
Scaccarij dicti Domini
Regis Subscriptam.*

(Written on the Tag thus)

*Litera Magistri Petri Low, Chirurgi,
Et Mag'ri Roberti Hamiltone, Pro-
fessoris Medicinæ.*



(Written on the back thus)

Written to the Privie Seall, Penult Novemb'r 1599.

J. HAY.

No. II.

ACT of COUNCIL, 9th Februarii, 1600.

Nono Februarii, Anno Dni. Millesimo sexcentesimo.

The quhilk day, ye Provost, Baillies and Counsall present Haveand inspec. No. 18. of Pro. tioune and advisement, with the privileges and statutis of our Soverane Lords Letter of Gift and Facultie grantit to Maister Peter Low, Chirurgeoun, Mr Robt Hamiltoun, William Spang and yair successors, professors of yair artis exersing the libertie of yair airtis, grantit be his Majesty to yame and yair successors, as in the said letter of Gift, under the Privie Seall, at length beiris, Hes promisit to hauld hand, concur, fortifie and mainteine yame and yair successors, and liberties granted to yame in the same, in all pointis and in all tyme comming, provyding that the same, nor na actis that yay sall happen to mak, be prejudiciale nor hurtfull to the common weal, and liberties of the town—and yairupon yay askit actis of Court. *Extractum de libro ac- torum.*

(Sic Subscrib.)

J. HEYGART.

No. III.

No. 56 of Pro. EXTRACTS from the RECORD, or MINUTE-BOOK, of FACULTY of PHYSICIANS and SURGEONS of GLASGOW.

Die iii. Junii. 1602.

The quilk day w^tin the Blackfrier Kirk of Glasgow, in presence of Sir George Elphistoune of Blaithswood, Knight, Provest, James Forrest, John Andersoune, Will. Andersoune, baillies thereof, compeir Mr Peter Low, and Mr Robert Hamiltoune, whilk producit ane gift of our Soverayne Lord anent their liberties, w^t the Provest and Baillies authoritie interponit thereto, as the samyn at length beires, and made convention with yr breithren, videlicet, Adam Fleming, Mr Rob^t Allasone, William Spang, Thomas Thomsone, John Lowe, and the samyn being red, the said Mr Peter and Mr Rob^t was content, of their ane consents, notwithstanding of their nomination of gift, that ilk yeir aince at Michalmes, the samyn shall be lytit amongst the brethrine, and wha, be maniest vottis, beis elected to remaine visitor for ane year yrefter, and so forth yearly in all tyme coming; and also, is content yt the fores^{ds} persons, brethren of craft, presentlie admitted by them, shall have power and libertie to use the craft and calling as free as themselves efter their knowledge, and that they shall not visit any of the foirs^{ds} brethren patients being on cuir wtout their aune consents and the patients, first had and obtained thereto, quilk brethren being present, consents to concure, assist, and had hand to; and, thereafter, the said Mr Robert, present visitor, whill Michalmese, be consent of the brethren, hes elected Robert Herbertsone, notar., clark to them, who hes given his oath of fideliti, and also creat George Bonnell, officer, quill Michalmes, and hes given his oath, and the said brethren, to conveine all such tymes as shall be apoynted, being warned be the officer, under the paines conteinit in the ordinance to be set doun thereanent, the brethren hes p'ntly given their oathes, and ordained the rest, and John Hall, to be conveined, and yt they shall concur and asist y^rw^t uthers, as becomes.

(Sic Subscribitur) ROB. HERBERTSON, *Notarius.*

Die xvii. Junii. 1602.

The quilk day, compeir Mr Robert Hamiltoune, visitor, and the brethren w^t his aune sone, and there electit their persons under wrytine, to be quirtermasters quill Michellmesse next to come, viz. Mr Peter Low, William Spang, Mr Rob. Allasone, Adam Fleming, wha geve thir oaths as afeirt.

And thereftir, they w^t on consent, statute and ordaine yt give any thereof doe conveine, w^t the visitor for setting doun of any good order, shall be sufficient. Also give any of them or uthers of the brethren being warned per-

sonally to any conventions, and not compeirand, shall pay ten shilling of pena
naltie w^tout ane resonable excuse, to be aplayed to such uses as the visitor and
his masters shall think expedient.

(Sic Subscribitur)

ROB. HERBERTSON, *Notarius.*

Die xxii. Junii, 1602.

The quilk day, Mr Robert Hamiltoun, visitor, Mr Peter Low, William Spang, Adam Fleming, Mr Robert Allason, q'rter-masters, conveined in the saids Mr Rob^{ts} ain dwelling-house, w^t the rest of the brethren; the quilk day, in respect that Thomas Thomsone heiving given his oath at his entrie, to beir burdene w^t the rest of the bretheren, and discharging of his dutie, he being synsen desired to compeir w^t them to their assistance in doing their leasome business severall tymes, hes most wrongously contemptuously disobeyed. Therefore, they ordaine him to tyne whatsoever libertie he has be ym, and to tak in his bassons. Also Johne Hall, and others, to be discharget sicklyke, and to that effect requists the provist and baillies to interpon their autoritie thereto.

Act against Thom-
son and Hall.

And als condishendis to give up the particular persons' names that any way usurps any libertie and privilege of the bretheren to the provist and baillies, requesting them to cause them to conveine, and to find cation for abstinence, conform to his Majesty's commission and the autoritie of the toune interponit thereto.

Act to give up the
usurpers names to
ye Magistrats.

Eodem die.

Being conveined as s^d is, they have condishended, and be thir presents condishends, that gif any person being qualified does enter, being a burges son, shall pay for his admission fortie pund, and give any burges sone be pretisse w^tin the toune, with a frieman of the said calling entered freman, shall pay thretie punds for his admission, and a stranger that comes to enter frieman, shall pay 66 lib. 13s. 4d., and none of the above named persons to be admitted, till they produce the burges ticket befor the deacon and qurter-masters, according to the act of the Gildrie.

Act for admission
of Freemen.

Eodem die.

The said day ordaines, that all pretises to be entered, shall remaine no shorter space nor seven yeares, and the last two for meal and fee; and at his entri shall pay five pund to the craft, and to the clark 1 lib. 13s. 4d. give he be ane extraordinar on, and give he be a burgess son to pay 2 lib. to the box, and to the clark 1 lib. 6s. 8d., and to the officer 12s.; and that ilk prentice shall be examined after the first thrie yeaers compleating, upon his arte of craft, and to pay 5 lib. for the dinner at that time, and to every examinator 20s. and to the clark 6s. 8d. at the day of examination, and the visitor

to admonise the examinators qr'on they shall examine to be wryten; and at the five yeares end to be examined lykewise, and to pay alyke. And at the seven yeares end, q'han he passes master, to be examined upon the whole particulars of his airt, off the deffinitions, causes, signes, accidents and cures of all deseisises pertaining to his airt, w't the composition of nature and fit medicaments, as shall be requisite, payand at the tyme for ane denner ten pund, and to the examinatores and others as is aforesaid.

Eodem die.

It is statut and ordained, that barbers being a pendeclie of chyrurgerie, shall pay at their admission fortie punds Scots, and elk yeir twentie shilling to the puir, and limited not to midle wt. any thing farder belonging to chyrurgerie, under the paine of five pund, *toties quoties*, and shall pay to the clark of the calling for his beuking thretie shilling Scots, and to the officer twel shilling.

(Sic subscrabitur) ROBT HERBERTSON.

4th August 1656.

Conveint in the craftes hospitall, the pnt. visitour w't. Mr James Hamilton, Daniel Browne, John Law, Malcolm Greg, William Clydisdaill, Robert Curtis, Adam Gray, and Andrew Bogle, who all in one voice did condescend and agrie, that ane seall of cause, or letter of deaconrie, be purchest from the town-councell in favoures of the Facultie, but prejudice of the old gift grantit to them be the deceast K. James; and this to be drawen allenerlie in favoures of the chyrurgeons and barbers.

No. IV.

No. 19. of Pro. GENERAL SIGNET LETTERS, the SURGEONS of GLASGOW *against* the MAGISTRATES, and all and Sundry.

Dated 31st July, signeted 14th August 1635.

CHARLES, be the grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, to our lovittis, JOHN RAMSAY, messenger, our Sheriffs in that part conjunctlie and severallie, speciallie constitut, greeting.—Forasmeikle as we understanding the great abusis qlk hes bein committit in tyme bygane, and zitt daylie continuies, in ignorant unskillit and unlearnit personis quha hes, under the culler of chyrurgeans abuseit our leidges att yair pleasor, passing away but tryell or

punishment and yrby destroying infinit members of our subjects, quarof na order hes taken in tyme bygane, speciallie within our burgh and baronie of Glasgow, sheriffdoms and burghs of Renfrew, Paisley, Dumbartane, Clydesdail, Lanerk, Kayll, Carrick, and Cunynghame; and also understanding that our umqu^l deirster father, King James of wortlie memorie, for avoyding of sic inconveniences, and for order to be tane yairanent in tyme coming, be his Hieness l'res of gyft under his Hieness Privie Seall, made y'rupon of the dait att Holirudhouse, the penult day of November the zeir of God jay and foiscore and nineteen zeirs, made, constituted, and ordainit the visitour in the said airt and calling of chirurgeonrie in our burgh Glasgow, and his successors, indwellers in the said burgh, Commissioners to the effect underwnⁿ, Give-and and Grantand to them full power to call, summond, and convein before them within our said burgh of Glasgow, or any oy'r of our saidis burrowes or publick places of the foirsaidis boundis, all persones professing or useing the said airt of chirurgeonrie, to examine them upon yair literator, knowledge, and practice, give they be fund worthie, to admitt, allow, and approve them, give them testimoniall according to the airt and knowledge that they sall be fund worthie to exercise y'rafter ressive yair aithes, and authorise them as accords; and to discharge them to use any furder nor they haue knowledge or passing yair capacicie, leist our subjectis be abuseit, and that every ane citat report testimoniall of the minister and elders, or Magistrates of the parochine q^r they dwell of yr life and conversatione, and in caise they be contumax being lawfullie citat, everie ane to be oulawit in the soume of fourtie pundis, *toties quoties*, half to the judges, the uther half to dispone at the visitoures pleasour; and for pay^t y'rof they to have l'res of horning on the partie or Magistrates q^r the contemptuous persones dwelles, chargeing theim to poynd yairfor within twentie-fourre hours, under the paine of horning, and the pairtie not haveand geir poyndable, the Magistrate under the same paine to incarcerat them qu^l cautiou responsall be fund that the contumax person sall compeir att the day and place as the said visitors shall appoyn, giveand tryell of yr. qualificatioun; and that the saidis visitors shall visit everie hurt, murderit, poysoneit, or uther persone tane away extraordinarilie, and to report to the Magistrates of the fact. Thirdly, That it shall be leisome to the saidis visitours with advice of yair brethren, to mak statutis for the common weill of our subjectis anent the saidis airtes and useing yairof faithfullie, and the breakers thairof to be punishit and unawlit to the visitors according to the fact. Fourtlie, It shall not be leisome to ony maner of persones within the foirsaidis boundis, to exercise medicine without ane testimoniall of ane famous Universitie q^r. medicine is taught, or at the leive of our said umq^l. deirst father, and our umq^l. deirst mother of worthie memorie, thair chief medicinaries, and in caise they failzie, it soud be leisome to the saidis visitours to challenge, persue, and inhibit thaim throw useing and exercing of the said airt of medicinie, under the paine of fourtie pundis, to be distributeit half to the judge, and half to the poor, *toties quoties* they be fund useing and exerceising of the same, ay and quhill they bring sufficient testimonialls as said is. Fyftlie, That na maner of persone sell ony drogis within our

citie of Glasgow, except the samyn be sightit be the saidis visitors, under paine of confiscatioun of the druggis. Saxtie, That nane sell ratine poyseing, arsenick, or sublimate, under the paine of ane hundreth merkes (except only the apothecaries quha shall be bund to take cautioune of the buyers for cost, skaith, and damage.) Seventlie, That the saidis visitores, with their bretheren and successors, shall conveine everie first Mononday of ilk moneth, att some convenient place, to visit and give counsell to puir desaisit folkis gratis; And last of all, givene and grantit to the saidis visitors, indwellers of Glasgow, professors of the saidis airtis, and their bretherene in pr'nt and to cum, immunitie and exemptioun frae all weipin shawingis, readdis, hostis, wearinge of armour, watching, wardeing, stenting, taxationnes, passing on assayesses, inquestis, justice courtis, sheriff or burrow courtis, in actiouns criminall or civil, notwithstanding of our said umqhil dearrest father, his lienes actis, callis and constitutiones made, grantit (exceptin giveing yr. counsell in matters appertaining to the saidis airtis), ordeineing all and sundrie provestis, baillies of burrowes, sheriffs, stewartis, bailyes of regalities, and oyr. ministers of justice within the saidis boundis, and their deputtis, to assist, fortifie, concur, and defend the saidis visitours and thair posteritie, professores of the foirsaidis airtis, and to putt the saidis actis made and to be made to due executioun; and that l'res be grantit thairupon to charge them to that effect, within twentie four hours next after they be chargeit thairto; as in the saidis l'res of gift and commissioun under the privie seall, made and grantit yrupon, of the dait above wⁿ. in favours of the saidis visitors in the said airt and calling of chirurgianrie within our said burgh and citie of Glasgow, and thair successoris att mair lenth is conteint, qrupon our lovitt, Mr James Hamiltoun, chirurgian, burges of our said burgh of Glasgow, p'nt visitor in the said airt and calling of chirurgerie within the samyn burgh of Glasgow, for himself, and in name and behalf of the remanent bretherin and freemen of the said airt and calling, and thair successores, obteinit ane decreit before the Lords of our Counsell and Sessioun, upon the last day of July last bypast, the zeir of God jayvi and threttie-fye zieris, against all and sundrie personnes quatever, professing or useing the saidis airtis of chirurgianrie or medicine within our said burgh and baronie of Glasgow, sheriffdomes, and burrowes of Renfrew, Dumbartan, Clyddisdaill, Lanerk, Air, Kyle, Carrick, and Cunynghame, and also agt. the provestis and bailziees of burrows, sheriffs, stewartis, bailyes of regalities, and other ministers of justice qutsumevir, within the saidis boundis, decerning and ordaining thir our l'res of horning to be direct upon ane single charge of three dayes allenarlie, chargeing all and sundrie the saidis personnes qutsumever professing or using the saidis airtis of chirurgianrie or medicine within the boundsforesaidis in generall, or be thair name in speciaill as they shall be requirit, to desist and cease frae all useing or usurping of the saidis artis of chirgeanrie or medicine within the boundis foersaidis of our said burgh and baronie of Glasgow, sheriffdomes, and burrowes of Renfrew, Dumbartane, Clyddisdaill, Lanerk, Air, Kyle, Carrick, and Cunynghame, except they be examined be the said Mr James Hamiltoun, p'nt visitour foersaid, in the said airt and calling of chirurgianrie and medicine within our said burgh of Glasgow, and be

his bretherin in the said airt, and thair successors, upon thair literator, knowledge and practice, and admittit, allowit, and approvit be them as being fund worthy, and y^r testimoniallis given to them according to thair knowledge, that they shall be fund worthie to exercise yraftir, thair aithes ressevit, and authorized be the said visitor and his breitherin of the said airt and their successoris, as accords, and also dischargeing them to use anie farder, nor that they have knowledge laist our leidges and subjectis be abusit, and siclyke dischargeing thaim to exerce ony medicine in the boundis foirsaidis, without the testimoniall of ane famous universitie quhair medicin is taught, or at the leif of our, or our deirrest spous' chieff medicinaries, under the said paine of fourtie pundis, *toties quoties* to be dystributeit half to the poore, and half to the judge, and also that they on no wayes sell any droges within our said burgh of Glasgow, except the samyn be syghtet be the said pⁿt visitor, and his successores visitors of the said airt, under the paine of confiscatioune of the saidis drogis; and that they sell no ratoune poysen, arsonik, or sublime, under the said paine of ane hundredth merkis,—except only the apothecaries wha shall be bund to take cawtioun of the buyers for cost, skaith, and dammage; and also that they usurpe nor doe nothing in contrair the tenour of the saidis l're of gift and commission, and to obtemper and obey the samyn in all poyntis, after the forme and tenor thairof: And in like manir, chargeing all and sundrie the saidis Provest and Baillies of burrowes, Sheriffis, Stewartis, Bailzies of regalities, and utheris Ministeris of Justice qu'tsumever, within the saidis boundis, and their deputtis, to assist, fortifie, concure, and defend the said Mr James Hamiltoun, pⁿt visitor foresaid, and his breitherin, and their successoris, professoris of the saidis artis, and to put their actis made and to be made thairanent to due execution, conforme to the foirssais l'res of gift and commissioun grantit thairupon, in all pointis, as in the said decret att more lenth is conteinit.—Our will is herefore, and we chairge you straitlie, and commandis, that incontinent thir our l'res seen you pass, and in our name and authoritie, command and charge all and sundrie the foirsaidis persones q'tsomevir, professing and useing, or usurping the saidis airtis of chirur- gianrie and medicine, within the boundis above specified in general, or be their names in speciall, as they shall be requireit, be open proclamatioun at the mercat croces of our burrowes of Glasgow, Lanark, Rutherglen, Renfrew, Paislay, Dumbartan, Air, Irving, and uther places neidfull, to desist and cease frae all useing or usurping of the saidis airtis of chirurgeanrie or medicine, within the boundis foirsaidis of our said burgh and baronie of Glasgow, sheriffdomes burrowes of Renfrew, Dumbartan, Clidisdaill, Lanerk, Air, Kyle, Carrick, and Cunynghame, except they be examined be the said Mr James Hamiltoun, pⁿt visitor foresaid in the said airt and calling of chirurgeanrie and medicin within our said burgh of Glasgow, and his bretheren of the said airt, and thair successores, upon thair literator and knowledge to practize, and admittit, allowit, and approvit be them, as being fund worthie, and y'r testimoniall given to them, according to their airt and knowledge, that they shall be fund worthie to exercise yaireafter, their aithes ressevit, and authorised be the said visitor and his bretherene of the said airt, and thair successores, as accordis: And also that ye, in our name and authoritie, inhibit and discharge

them to use ony farder nor that y'rof they have knowledge and capacitie, laist our leidges and subjectis be abuseit ; and sicklike, that ye discharge them to exerce ony medicine within the boundis foirsaidis, without the testimoniall of ane famous Universitie, q'r medicine is taught, or att the leife of our and our dearest spous chieffe mediciners, under the said paine of fourtie pundis, to be distributeit, half to the poore and half to the judge, *toties quoties* ; and also, that they on no wayes sell ony droges within our said burgh of Glasgow, except the samyn be sightet be the said p'nt visitor, and his successores visitors of the said airt, under the paine of confiscatioun of the saidis drogis,— and that they sell no rattoun poysoun, arsenick, or subleim, under the said paine of ane hundredth merks, except onlie the apothecaries, wha shall be bund to tak cawtioun of the buyers, for cost, skaith, and dammage ; and also, that they usurp nor doe nothing in contrair of the tenour of the saidis l'tres of gift and commissioun grantit be our said umq^l dearest father y'ranent, but to obtemper and obey the samyn in all pointis, efter the forme and tenour foirsaid : And in like manner, that ye, in our name and aut'bie, command and charge all and sundrie the saidis Provestis and Bailzies of burrowes, Sheriffis, Stewartis, Bailzies of regalities, and uther Ministeres of Justice q'tsumever, within the saidis boundis, and y_r deputtis, to assist, fortifie, concure, and defend the said Mr James Hamiltoune, p'nt visitor foirsaid, and his bretheren, and y_r successoris, professores of the saidis airtis, and to put y^r actis made and to be made y'ranent, to due execution, conforme to the foirsaidis l'res of gift and commissoun grantit to them y'rupon, and decreet abovewⁿ, obteinit be them upon the samyne, in all pointis, within three dayes next after they be chargeit be you thairto, under the paine of rebellioun, and putting of them to our horne; qlk if they refuse to doe, the saidis three dayes being bypast, that ye incontinent y'reafter denounce the disobeyers our rebelles, and put them to our horne, and escheat and inbring all y^r moveable goodis to our use, for y^r contemptioun and rebellioun foirsaid ; and immediatlie after yo^r said denounciatioun, that ye use the haill remanent order prescryvit be our act of Parliament made y'ranent.—According to justice, as ye will answer to us y'rupon. The qulk to doe we co'mitt to you, conjunctlie and severallie, our full power be thir our l'res of horning, delivering them be you duely execut and indorsed again to the bearer. Given under our signett att Edin^r, the last day of July, and of our reigne the eleventh yeir, 1635.

Per Decretum Dno'rum Concilii.

(Signed) JA. WILSON.

*Written be Mr WILLIAM PURVES,
my Servr.*

(Signed) 14th August 1635.

No. V.

LETTER OF DEACONRY.

To all and sundry whom it effeirs, to whose knowledge these present letters shall come, We John Anderson, provost, John Anderson, John Walkinshaw, and William Wilson, bailies of y'e burgh of Glasgow, senators and council-lours of the samen, Greeting in GOD everlasting, witt you universities and all others whom it may concern, yt. there compeared before us John Hall, present headsman or deacon of chyrurgeons and barbers within the same burgh, for himself, and in name and behalf of the said chyrurgeons and barbers, did oft divers and sundry times present to us and our counsell gathered together, the bill and supplication underwritten, of the whilk the tenor follows:—

Unto the right honourable Provost and Bailiss and counsell of Glasgow, the humble petition of your servants and comburgesses, the Chyrurgeons and Barbers, residents, within the said city, humbly sheweth, That whereas these fifty-seven years past since y'e patent, granted to us of the date y'e penult day of November 1599 years, be y'e deceast King James, to our own and to your predecessors knowledge, we have been in use yearly to elect a deacon as visitor and overseer of y'e rest of the members of our calling, as other members have been in use, by virtue of any patent letter of deaconry, and seal of cause, conceived upon them heretofore by my authority, and that it is incumbent upon us to have our letter of deaconry of your honours, as others of this incorporation have granted to y'em by your predecessors, for ane joint and harmonious correspondence of brotherhood, as brother citizens willing to sympathize with the rest of the body of y'e city, whereuntil we shall be concerned to the extent of our power, with the like privileges and liberties, as that your authority may be interponed thereto, and we, authorised thereby to use such power, observe such courses and customs, as other callings, have granted to y'em by their letter of deaconhood, or seal of cause, that we convene at the ordinarie time as other callings do yearly before Michalmess in our ordinarie place of meeting in all time coming, and there, as use is, by plurality of votes, elect and make choice of one of our number to be visitor or deacon for a year thereafter to come, who shall be one of the most fit qualified and worthiest of the said calling, an chyrurgeon or burgess of the burgh ; and he being sworn *de fideli administratione*, may appoint meetings for convening the calling, cause quartermasters to elect, the one half of his own nomination, and the other half by the calling itself, who shall be authorised to impede any person whatsoever by concourse of your honours, to presume to exercise any point of the art of chyrurgie or barboury, or set out any signs for either of them, till he be try'd and admitted by the said calling by manner of tryal as shall be prescribed, being first admitted burgess of the town ; next that a burgess son surviving his prenticeship five years as an apprentice, and two years for meal and fee, and pay forty merks Scots at his admission for his upset ; and a stranger entering ye said calling, first being burgess, to pay for his admission fourscore

marks for the use of the poor of the calling. *3dly*, That no freeman usurp the having of more prentices than one during the said seven years, without express warrant from the visitor and quartermasters. *4ly*, The said calling may fine any usurper that exercises the said arts, without their admission, tollerance or license, in the sum of ten pund Scots, *toties quoties*, appropriating y'e one half to the bailiffs of the city, and the other to the box of the calling. *5ly*, That y'e visitor for the time appoint dyets of four head courts or meetings of y'e calling, and oftener *pro re nata*, and cause poynd y'e absents in half a merk each time, to be employed for y'e use of the poor. *6ly*, That no freeman make use of any unfreeman, under his tollerance, under the pain of a new upsett, neither take any other freeman's apprentice, without his former master's leave asked and granted, under y'e like pain. *7ly*, That no freeman presume to take any other freeman's cure out of his hands, till he be honestly paid for his bygone pains, and that at the sight of y'e bailiffs, with the advice of the visitor, in case the patient find himself grieved by the chyrurgeon, under the pain of a new upsett, excepting always liberty to the visitor and quartermasters to take patients from ane freeman, not found qualified for the curing of y'em, and to put them to an more qualified person, as shall be thought expedient after an exact tryal. *8ly*, That any member of y'e calling whatsoever qualitie, contemner of the visitor and his quartermasters in any of y'e points foresaid, or of their officer in execution of his office, (who is to be last entranter freeman of y'e calling, and so to remain till another enter) pay a new upsett, according to that he paid at his entrie, to be qualified by y'e records of y'e calling. *9ly*, That no brother within the said calling, presume to meddle with any more points of chyrurgery than these they are found qualified of at their admission, and conform as they are booked under the pains of the soumes above written respective as an new upsett. And, *lastly*, That the said visitor or deacon may judge betwixt master and prentice, at the bailiffs sight, in case any difference of importance, and betwixt brother and brother of y'e calling, in particulars relating thereto, and give order to poynd y'e absents from court and burrials, being warned for that effect, and for not payment of quarter compts.

May it therefore please your Honours, the premises being considered, to grant a Letter of Deaconrie or Seal of Cause to y'e said calling, under y'e seal of y'e burgh, and that in regard of our being so long a standing part of y'e craft of y'e city, and contributes yearly in a constant proportion for y'e supply of y'e poor of y'e hospital, to extend the same, conform to y'e laudable customs observed to us and our successors, chyrurgeons and barbers, burgesses of this city, and to grant us y'e liberties and privileges aforesaid granted to other callings, as is above expressed in all points, for removing y'e disorders that may arise, and your Lordships answer; which articles and statutes above written being oftentimes read, heard, understood, and maturely advised by us, the said provost, bailiffs, and councile of this burgh of Glasgow, and we finding y'e same tending to the well of people, as well within as without the burgh, and to the benefit of y'e said art and craft of Chyrurgeons and Barbours. We, therefore, by thir presents, grant, ratify, and approve, and confirm the

same, for us and our successors, in the whole heads and articles, and clauses contained in y'e supplication above written, to the said John Hall, present Deacon of the said Chyrurgeons and Barbers, and whole present brethern of that art and craft, and to their successors, Chyrurgeons and Barbers burgesses, of this burgh, in perpetuall memory in all time coming, promise, and faithfully to fortify and defend them thereanent, by us and our successors and office-bearers for y'e time, and their promises to all and sundry whom it effeirs, we make manifest and known. In witness of the which, and for the more verification of y'e same, we have subscribed thir presents, with our clerk deput of court, our seal is hereto appended att Glasgow the 16th day of August 1656 years.

Signed { JOHN ANDERSON, *Provost.*
 JOHN ANDERSON,
 JOHN WALKINSHAW, } *Bailiffs.*
 WILLIAM WILSON,
 JOHN BELL, *Dean of Guild.*
 WALTER NEILSON, *Deacon Conveener.*
 WILLIAM YAIR, *Clerk Deput.*

No. VI.

RATIFICATION of the GIFT of KING JAMES, by the Parliament of No. 17 of Process.
 Scotland, 1672.

AT Edinburgh, the eleventh day of September, one thousand six hundredth and seventie-two years, Our Soverane Lord, with advice and consent of his Estates of Parliament, now presentlie convened be his Majestie's special authoritie, hes ratified and approven, and be thir presents ratifies and approves ane Letter of Gift past under the Privy Seal of the date at Halyrude-house, the penult day of November 1599 years, whereby his Majestie's grandfather, of blessed memorie, for avoyding of inconveniences, and for good order to be tane in tyme comeing, within the burgh and barronie of Glasgow, gave and granted full power to the chirurgeans and professors of medicine within the city of Glasgow for the tyme, and their successors, to call and convene before them within the said burgh of Glasgow, or any other place of the bounds foresaid, contained in the said Gift, all persons professing or using the arte of chirurgerie, to examine them upon their literature, knowledge and practice; If they be fund wordie, to admit, allow, and approue them, give them testimoniell according to their arte and knowledge to exerce thereafter, receave their oaths, and authorise them as accords; and that it shall not be leisum to any maner of persons, within the foresaid bounds, to exercise medicine, without ane testimoniell of ane famous Universitie, wher medicine is taught, or at leist

the persons above mentioned, and their successors, under the pains contained in the said Gift; and that no maner of persons sell any drogs within the city of Glasgow, except they be sighted be the forsaids persons under the paine of confiscation of the drogs; and that no ratton poyson be sold, except by the apothecaries, who shall be bund to take caution of the buyers, for coast, skaith, and damage, as the said Letter of Gift, in the selft at more length proports, in the haill heids, clauses, articles, and circumstances of the samen, and after the forme and tenor thairof, in all points, in so far as the samen Gift, and this present Ratification thereof, can be extendit in favours of the present chirurgeans, appothecaries, and barbours within the said burgh of Glasgow, and their successors allenerlie, and no further: And his Majestie and Estates of Parliament, wills, grants, and declares, that this present general Ratification shall be als valeid and sufficient to the saids chirurgeans, appothecaries, and barbours, and their successors allenerlie, as said is, as if the said Gift wer word be word heir engrossed, notwithstanding the samen be not so done, wherewith his Majestie and Estates of Parliament has dispensed, and be thir presents dispensed for-ever.

Extracted forth of the Records of Parliament be me, Sir Archibald Primeroe of Cairntoun, Knight and Baronet, Clerk to his Majestie's Councill, Registers, and Rolls.

(Signed) A. PRIMEROE.
Cl. Reg.

No. VII.

No. 57 of Pro.

Ex^t Reg^d SASINE, proceeding on Disposition and Assignation, dated 14th February 1662, by ROBERT DURROCH and JOHN YOUNG, in favour of the FACULTY OF PHYSICIANS and SURGEONS of GLASGOW.

Octavo Julii 1662, et anno regni regis 14.

PERSONALITER accessit honorabilis vir Andreas Moodie unus balivorum burgi de Glasgow, Ad Totum et Integrum illud tenementum terræ jacens in dicto burgo ex orientali latere viae ejusdem nuncupatæ Trongait boundans inter terras W^mi. Dunlop ex occidentali terras Robj Marshall ex orientali viam regiam ex australi et terras

ex boreali partibus, Et ibidem discreti viri Robertus Dorroch senior et Joannes Young mercatores burgen dicti burgi pro per impletione unius eorum partis cuiusdam assignationis et dispositionis per ipsos fact et concessit in favorem Jacobi Franck pro p^{nte} visitoris Medicorum et Chyrurgor. in dicto burgo et fratrum Facultatis ejusdem vocationis virtute cuius ac pro causis in ejusdem expressis præfati Robertus Dorroch et Joannes Young Dictum Jacobum Frank ejusque successores visitores seu decanos dicti voca-

tionis in usum et utilitatem omnium fratrum ejusdem in dicto tenemento aliquo subscripto infeodare tenentur pro ut in eisdem de data decimo quarto die mensis Februarii ultimo elapsi latius continetur. Totum et Integrum predictum tenementum terræ subtus ut supra cum p. ten'ent boundans et jacens ut præmittitur in manibus dicti balivi per terræ et lapidis fundi ejusdem deliberationem ut moris est sursum reddiderunt pureque et simpliciter resignarunt et demiserunt in favorem et pro nova sasina hereditaria prefato Jacobo Frank visitoris seu decani dictæ vocationis Medicorum et Chyrurgorum in dicto burgo et ejus successoribus in officio in usum et utilitatem omnium fratrum ejusdem vocationis seu Facultatis de dictis terris inde danda et concedenda. Qua resignatione sic facta et per dictum balivum admissa et recepta idem Andreas Moodie balivus ante dictus ex debito sui officii balivatus statum et sasinam hæreditariam nec non realem actualem et corporalem possessionem Totius et integris predicti tenementi terræ subtus et supra ante et retro cum pertinentibus boundans et jacens ut supra memorato Jacobo Frank visitori seu decano dictæ vocationis Medicorum et Chyrurgorum in usum et utilitatem dict fratrum ejusdem vocationis seu Facultatis per terræ et lapidis fundi ejusdem deliberationem ut moris es dedit tradidit et deliberavit ac eundem Jacobum Frank decanum ejusque dictæ successores in officio in usum præscriptum in eodem tenemento debito investivit ac infeodavit secundum tenorem dictæ literæ assignations et dispositionis in omnibus salvo jure cujuslibet super quibus omnibus dictus Jacobus Frank a me notario publico subscripto sibi fidei petiit instrumentum usum seu plura acta erant hæc super fundo dicti tenementi hora decima ante meridionem aut ea circa sub anno die mense et regno regis quibus supra presentibus ibidem discretis viris Joanne Adam mercatore Rob^e Somerville Joanne Lyle sartoribus burgen dicti burgi et W^mo Crichtone officiario ejusdem testibus ad permissa vocatis et requisitis.

Extracted from the register of sasines of the burgh of Glasgow, upon this and the two preceding pages, at Glasgow, the twenty-second day of December eighteen hundred and twenty-nine years, by

(Signed) JOSEPH REID.

No. VIII.

ACT of the COUNCIL of the MAGISTRATES of GLASGOW, 9th May 1691, No. 32 of Pro.
approving of an Act of the Incorporation of Chyrurgeons, dated 25th March
1679, and rescinding an Act of Council, dated 23d September 1679, which
allowed HENRY MARSHALL to practise.

Att Glasgow, the nynth day of May, javj nyne tie-ane years.—The whilk day, the Provost, Baillies, and Counsell of the said Burgh being conveened, anent the supplication given in to them be the chirurgeons of this burgh, and

deacons of crafts for themselves, and as representing the haill incorporation of crafts within the samen burgh, MAKEING MENTION, that where they have been united with the said incorporation of trades, according to ane gift granted to them by King James the Sixth, of the date the penult day of November 1599 years, by virtue whereof they were empowered to make acts for the weill and behove of their said incorporation, according to which they did make ane act for the weill and profit of the said incorporation, dated the twenty-fifth day of March javj seventie-nine years, makeing mention, That where the members of the said Faculty present, taking to their serious considerations the prejudice that may arise through their promiscuous admission of strangers to practise chirurgerie and pharmacie within the city of Glasgow; and that be their Gift from King James of blessed memorie, and Ratification thereof, they are empowered to make statutes for the common weill of the leidges ament the saids arts; Have, for preventing thereof, for the future statut and ordained, like-as they thereby unanimouslie statuted and ordained, that nae person or persons whatsomever, shall in any time coming be admitted to practise any of the saids arts of chyrurgerie and pharmacie within the city of Glasgow, bot such as either have served their prentiship with ane freeman or member of the Facultie for the time, for the space of fyve years, conforme to indentors *in communi forma*: And have conforme thereto, receaved from his master meat and drink, and bedding within his house, the said space, or otherways be ane freeman's son, or maried to ane freeman's daughter, with the qualifications allways suteable and necessar for aither of the said airts, with this provision allways, That it shall be in the power of the Magistrates of Glasgow for the tyme, (in caise of deficiencie of qualified persons chyrgianes in the place), to call ane or mae weell experienced in the said airts to reside in the city. The intrants in that case being allways subject to the tryall of the Facultie for their qualifications, and paying their freedom fynes for the maintenance of their poor, according to their acts and statutes. In witnes of the whilk presents, the foresaid act is subscribed with the hands of the members of the said Facultie, at day, year, and place foresaid. Sic sub^r. Ro. Houstoune, John Hall, Alexr Tran, Lod. Lindsay, James Weir, David Sharpe, John Robertstone, Charles Mouat, Tho. Smythe, J. Hall, John Robertstone, W^m Stirling, nottar for Evir McNeill. This is the just double of the act extracted furth of the chyrgians court-book by me. Sic sub^r. Adam Wilsone, *Clerk*. The extract of which act was produced to the saids Magistrates and Counsell, which act having been desired by the Magistrates and Council for the tyme, to have been confirmed, ratified, and approved by their act of Counsell, whilk was refused and absolutelie denied to the said incorporation of chyurgeons, without giving them any reason therefor. Bot instead thereof, did malitiouslie adhere to ane supplicatione put in by Mr Henry Marshall, whereby he desired to be privileged to set up and practise their arts over their bellies, and without their consent, which supplication of his, so soon as it was presented, was granted him by ane act of the Magistrats and Toune Counsell for the tyme, whereof the tenor follows:—Apud Glasgow, vigesimo tertio die mensis Septembris javj Septuagesimo nono. The whilk day, the Provost, Baillies, and Counsell

being conveened anent the supplication and petition given in before them, by Mr Henry Marshall, chyrurgiane, burges of this burgh, makeing mention, That where the petitioner, at sundrie tymes, both desired and petitioned the deacone and visitors of the chyrurgians and his masters, to admit him being burges and gildbrother, freeman in their trade as chyrurgian and apothecary, being the airts he professed, and as they had admitted others, both burgesses and strangers professing these arts, he being found qualified and paying the ordinary dues and fees, whilk, after long tyme and dependance upon their answer, they refused to doe : And thereupon, the suppliant having meaned himself to the deacon-conveener, deacons of crafts, and their bretheren of counsell, craveand them to consider the premisses, and decerne therein as they should think fit, (The said calling being incorporate with them.) The deacon conveener, deacons of trades, who, for the maist pairt were present, and their bretheren of counsell, be their act of the date the twentie-sixth day of August then last, have concluded and declared by pluraltie of votts, That it is their opinion, that the said Mr Herie should be admitted freeman with the said incorporation of chyrurgians, and have power and libertie to exerce his employment in chyrurgerie and pharmacie, als freelie as any within the said calling,—he being found qualified after tryall, and paying the dues, unless the calling instruct ane sufficient ground, whereby the samen should not be granted. And therefore referred the samen to the Provost, Baillies, and counsell of Glasgow, to be farther considered be them, and to determine thereanent according to justice, as the said act bears: Whilk act the suppliant has presented to the visitor and masters of the said calling. And having over and over again desired them after tryall, to admit the suppliant freeman, whilk they yet altogether refuse, and conforme to the said act, being ane burges and gildbrother, and craveand nae uther benefit bot what is ordinarie given to uthers of the like condition : Therefore, humbly beseeching their Lordship to consider the haill premisses, and to act and doe therein according to your Lordship's just authoritie and power. And upon their said refusall, to grant to the suppliant such license to set up as if he were reallie admitted with the said calling, and as their Lordship should think fit and expedient, upon payment of the dues, as the said supplication more fullie proports. Whilk being called and read upon the threttein day of September instant, with the extract of the foresaid act made be the said deacone-conveener, deacons of craft, and their counsell, of the date and tenor foresaid produced, The foresaid Magistrats and counsell, be their act of the same date, did appoint the desire of the same supplication to be intimat to the visitor of the chirurgeans, for himself and in name of the calling, ordaining him to be warned against this day, to the effect he might instructe ane sufficient cause wherefore the suppliant ought not to be admitted ane freeman in that calling ; and the said visitor being warned accordinglie, and the said act and supplication of new again this day read, and non compearand to object in the contrare, the said provoist, baillies, and counsell, after mature advice and deliberation had anent the premisses, has given and granted, and hereby gives and grants to the said Mr Henrie Marshall, suppliant, full power, licence, and libertie, to set up and exerce his

calling as chyrurgian and apothecarie and pharmacian within this burgh, alse amplie in all respects as if he were admitted freeman with the said calling of chyrurgians ; and ordains their clerk to give the suppliant out the extract of thir presents, *sic subscriptitur*. The granting whereof has ruined the wholl incorporation of chirurgians to this day, and whereby they were necessitat ever since to separat themselves from the rest of the incorporations of trades, so that the said haill incorporation of trades has found the prejudice and loss of having a particular calling disjoyned from them, and has sustained a considerable loss in the maintenance of their wholl poor, which having now bein presented to the incorporation of trades, they all of them find themselves singularlie prejudged by the want of the said incorporation of chyrurgians, whatever was the pretensions for granting the said act of counsell to the said Mr Henrie Marshall, the extract whereof was also produced ; and if any should object that it has not been customarie to rescind acts of counsell be ane subsequent counsell, it was offered to be made appear to be ordinarily practised as in the case of John Johnstoune, wright, who had receaved ane act of counsell for besetting over the bellie of that trade was rescinded, cassed, and annulled be the next counsell, as if there had not been any such act ; dated fourteine day of February jayvj fiftie-seven years. As the samen likeways produced more amplie proports, craveing therefor the said Magistrats and Counsell to restore the foresaid incorporation of chyrurgeans to their former priviledges and liberties ; In ratifying, approving, and confirming to them and their successors their said particular act, by their act of counsell ; and likeways to rescind and annull that act granted by their predecessors to the said Mr Henrie Marshall, whilk has been usewall and practicable when any such act has been made that was prejudicall to the trades, and particularlie by ane act whilk was granted in favours of the said umql John Johnstoune, wright, which thereafter was by them rescinded by ane posterior act, dated the fourteen day of February jayj fiftie-seven years, likeways produced ; all which being the humble petition, not only of the chyrurgeons, bot of the haill incorporation of trades, will be the mean to reunite the said incorporation of chyrurgians, that so in all time coming they may live in love and peace with the rest of the incorporations of trades ; whilk being taken to the said provoist, baillies, and counsell, their consideration with the gift granted to the petitioners be King James the Sixth, of the date foresaid, whereby they are empowered to make acts for the weill and behove of their said incorporation, with the act of the said calling made be them by virtue of the samen for the weill and profite thereof : As also the said act rescinding ane former act granted to the said umql John Johnstoune : And the particular loss and prejudice the haill incorporation of the trades of this burgh have sustained, and sustains be the incorporation of chyrurgians there, and disjoining themselves frae the rest of the trades, whilk was occasioned through the said act of the Towne Counsell granted in favoures of the said Mr Henrie Marshall : And being weill and ripelie advised thereanent, and after mature advice and deliberation had be them concerning the premisses, they find the desire of the said petition most just and reasonable : And therefore, the said provoist, baillies, and counsell, for them and their successors in office, have not only

ratified and approvine of the said act made be the saids petitioners for the weill and profite of their said incorporation, dated the said twentie-fyfth day of March, javj seventie-nine years, bot likeways rescinds and annulls the said art of the Magistrates and Town-Counsell granted in favours of the said Mr Henrie Marshall, dated the twentie-third day of September, javj seventy-nine years, and declares the samen to be null, and of no avail, force, nor effect, as if the samen had never been made nor granted : And yet, notwithstanding the saids Magistrats and Counsell refers the said Mr Henrie Marshall to the said incorporation of chyrurgianes, and earnestlie desires them to use him civillie and discreetlie ; and ordains the clerk to give out extracts hereof under his hand, whilk is hereby declared shall be also sufficient, as if the said Magistrats and Counsell had subscribed the samen themselves. Extractum, &c.

(Signed) G. ANDERSONE.

No. IX.

LIST of BONDS of DESISTANCE given to the FACULTY of CHYRURGEONS.

- 1659. Imp'. Ane bond be Agnes Quantane, relict of H. Morae in Air.
- 1659. Item. B. be James Harper in Goving.
- 1661. Item. B. be James Faivie, hammerman in Rutherglen.
- 1661. Item. B. be William Cuthbert, weaver in Hamiltone.
- 1661. Item. B. be John Simpson in Kilwinning.
- 1670. Item. 2 Bonds be Thomas Jackson, chirurgeon in Greenock.
- 1670. Item. Reg"rat bond chirurgeons grat. Jacksone.
- 1670. Item. B. be Patrick Crawford of Dalgliesh.
- 1671. Item. B. be James Loudon, gardiner in Ayr.
- 1671. Item. B. be John Loudon, gardiner at St Quivox.
- 1672. Item. B. be James Kere, in Hamiltone.
- 1673. Item. B. be John Paterson, chirurgeon in Paisley.
- 1673. Item. B. be John Fentone in Hamiltone.
- 1673. Item. B. be Mr Andrew Hamiltone in Kilbryde.
- 1673. Item. B. be John Brown in Paisley.
- 1673. Item. B. be John Couper in Lesmahagoe.
- 1673. Item. B. be Alexander Wilson, gardner in Glasgow.
- 1677. Item. B. be John Crawford, in Holmhead of Kilmarnock.
- 1678. Item. be William Wallace in Paisley.
- 1678. Item. B. be Andrew Browne, in Slipperfield.
- 1679. Item. B. be John Adam, at Inglis toun Bridge.
- 1680. Item. B. be Mark Clifford, in Lanark.
- 1680. Item. be John Hutchisone in Goving.
- 1690. Item. B. be Margaret Anderson, spouse to David Hutchison in Glasgow.
- 1691. Item. B. be James Johnstone in Hamiltone.
- 1692. Item. B. be Cornelius Jackson in Culraine.
- 1692. Item. B. be Cornelius Jacksone in Culraine.
- 1692. Item. B. be John Ferguson in West Ferrie of Erskine.
- 1692. Item. B. be James David in Possil.
- 1693. Item. B. be Janet Hall, spouse to John Wilson, skipper in Ayr.
- 1693. Item. B. be Mr Samuel Hendersone in Kilmorres.

1693. *Item.* B. be Mr James Thomsone in Dundonald.
 1693. *Item.* B. be Betha Hamilton, spouse of William Smith in Kilmarnock.
 1693. *Item.* B. be Margaret Cromy in Air.
 1693. *Item.* B. be Thomas Gammell in Nether Blockwood of Granger.
 1693. *Item.* B. be Thomas Bisset, gardner in Kilmarnock.
 1693. *Item.* B. be John Small of Crocketshiell, for his spouse.
 1693. *Item.* B. be John Paterson, gardener to Capringtoune.
 1693. *Item.* Reg"rat B. John Stewart in Glasgow.
 1693. *Item.* B. be James Richard in Air.
 1693. *Item.* B. be John Park of Dubbs.
 1693. *Item.* B. be Agnes Garven, relict of Andrew Cochrane of Air.
 1693. *Item.* B. be Agnes Carmichael, spouse to James Loudon in Air.
 1693. *Item.* B. be David Steven, weaver in Auchinreoch.
 1697. *Item.* B. be James Cuthbertsone in Pollock.
 1697. *Item.* B. be Elizabeth Govane in Kilbryde.
 1697. *Item.* B. be David Strachane in Dumbartone.
 1697. *Item.* B. be Isobele Crawfurd in Gorbals.
 1697. *Item.* B. be Hugh Pitrone in the parish of Dalry.
 1697. *Item.* B. be Robert Drummond, indweller in Glasgow.
 1698. *Item.* B. be Robert Young Hillman in Carntyne.
 1698. *Item.* B. be Francis Davidson, gardiner in Castlemilk.
 1698. *Item.* B. be James Murdoch, indweller in Glasgow.
 1698. *Item.* B. be Jenet Wilsone, spouse to John Thomson, glover there.
 1698. *Item.* B. be George Swan in Gorballs.
 1698. *Item.* B. be Bryce Macome in Blackstone.
 1698. *Item.* B. be George Hay in Drumm.
 1698. *Item.* B. be John Reid, gardiner to Calderwood.
 1698. *Item.* B. be Mr John Semple.
 1698. *Item.* B. be Andrew Veitch.
 1699. *Item.* B. be James Steven, tailor in Glasgow.
 1699. *Item.* B. be William Jaffray, gardiner in Broomhill.
 1699. *Item.* B. be James Broynlie, servant to Raploch.
 1699. *Item.* B. be James Stevenson, in burgh of Lenzie.
 1699. *Item.* B. be Robert Forrcst in Braehead of Dalserfe.
 1699. *Item.* B. be William Kirkwood, at the Castle of Crookstone.
 1699. *Item.* B. be John Gray, taylor in Glasgow.
 1699. *Item.* B. be Hugh Mudie, gardiner at Eglintone.
 1699. *Item.* B. be David Marshall, late baker in Hamiltone.
 1699. *Item.* B. be John Naysmith, apothecary in Hamiltone.
 1699. *Item.* B. be James David, in Possil.
 1699. *Item.* B. be James Hamilton, land-labourer in Hamiltone.
 1700. *Item.* B. be John Smyth.
 1700. *Item.* B. be William Howie.
 1700. *Item.* B. be William Hunter.
 1700. *Item.* B. John Mephan in Balfrone.
 1701. *Item.* B. James Dunlop, writer in Renfrew, and Elizabeth Orr.
 1701. *Item.* B. Hugh Gibbsone, copper in Paisley, and Margaret Parkhill.
 1701. *Item.* B. John Alexander, litster in Glasgow.
 1701. *Item.* B. Robert White in Inchinnan, and Genat Fulton, spouse.
 1701. *Item.* B. William Rowand.
 1701. *Item.* B. David Fleaming in St Grinock.
 1701. *Item.* B. John Daves in Hamiltone.
 1701. *Item.* B. Isobel Foster in Guirock.

No. X.

BOND of DESISTANCE by Mr GEORGE SWAN to the FACULTIE of No. 62 of Process,
CHYRURGEONS of GLASGOW, 13th October 1698.

BE IT KNOWN TO ALL MEN, by thir presents, me George Swan, hammerman in Gorbals ;—Forasmeikle as I am prohibit by the Faculty of Chyururgeons of Glasgow to practise physick, chirurgery, or pharmacy, under certain certifications and penalties to be payed by me to them in case of contravention : Therefore, I bind and oblige me, that in tyme coming, I shall cease and desist frae the practice of any of the said arts till I be found qualified by the Facultie y'rto, and be accordingly licensed y'rto, or in case of contravention y'rof, I shall make payment to the Facultie for the use of the poor y'rof fourtie pounds Scots, *toties quoties*, as I shall be convict of practising hereafter, consenting thir presents be insert and regrat in the books of Council and Session, or any oy'rs competent, that letters of horning on six days or oy'rs needful, may hereon pass in form as effeirs ; and y'rto constitute

procurators, (written be James Alexander, ser^t to Robert Robertson, wryter in Glasgow), and subsd at Glasgow the thretteen day of October jajvj nyntie-eight years, before thir witnesses, John Cassie, barber in Glasgow, and the said James Alexander.

Signed { GEORGE SWAN.
JOHN CASSIE, witness.
JA. ALEXANDER, witness.

No. XI.

BOND of DESISTANCE by JOHN MEPHAN to the FACULTIE of CHYRUR- No. 63 of Process.
GEONS of GLASGOW, 12th January 1700.

I, John Mephan, laitlie in Ballfron, hereby binds and obliges me, my oires and successors, no ways to practise the arts of medicin, chyurgerie, and pharmacie, w^tin the bounds of the Facultie of Chyururgeons of Glasgow, and that I shall desist and quitt^rfrom in all time coming : And y^t under the Payne of fourtie pounds Scots to be payed by me, in case of failzie, to Mr Henry Marshall, chyurgeon, collector to the Facultie, and his successores, (for ye use of the poor), *toties quoties*, attour performance of ye premises, consenting thir presents be regrat in the books of Councill and Session, or any oyrs y^t by ane ext l^{rs} of horning, on six days charge, may pass, and I y'rto constitute pro'r's, &c. Written be Thomas Falconer, wrytter in Glasgow, and subsd at Glasgow, the twelfth day of Ja-

nuary ane thousand seven hundred years, befor thir witnesses, James Dick, Merchant in Glasgow, Patrick Fleming, Merchant there, and the said Thomas Falconer.

(Signed) J^o. M^{EP}HAN.

James Dick, *witness.*

Thomas Falconer, *witness.*

No. XII.

No. 64 of Process. OBLIGATION of DESISTANCE by DANIEL STEWART to the FACULTY of PHYSICIANS and SURGEONS at GLASGOW, 13th October 1750.

KNOW ALL MEN, by these presents, that I, Daniel Stewart, indweller in Calton, being imprisoned in the tolbooth of Irvine, by virtue of letters of caption, at the instance of Andrew Craig, surgeon in Glasgow, collector to the Faculty of Physicians and Surgeons in Glasgow, for my not making payment to him as collector aforesaid, and his successors in office, for the use of the poor of the said Faculty, of the sum of fourtie pounds Scots, for my unwarantably practising in physick in manner mentioned in a decreet obtained against me, before the visitor and other members of the said Faculty, dated the second day of May m^jviji and fourty eight, and in letters of horning and caption following thereon ; and now seeing, That the said Faculty have consented to my liberation, upon my granting the obligation aftermentioned ; Therefore, I, by these presents, faithfully bind and oblige me, my heirs and executors, That I shall not, for the future, in all time coming, after the date hereof, any manner of way, or under any pretence whatever, practise surgery or pharmacy within the bounds of the said Faculty of Physicians and surgeons in Glasgow, under the penalty of fourtie pounds Scots to be paid by me to James Anderson, surgeon in Glasgow, present collector to the said Faculty, or his successors in office, for the use and behoof of the poor of the said Faculty, in case I shall ever act to the contrair hereof, beside performance ; and that these presents may be insert and registrat in the books of Council and Session, or any other Judges books competent, to have the strength of a decreet interponed thereto, that letters of horning, on six days charge, and other execution needful, in form as effeirs, may pass hereon. I constitute

my pro'rs.—In witness

whereof these presents, (written upon stamped paper by Robert Crawford, wryter in Irvine), are subsd by me att Irvine the thirteenth day of October one thousand seven hundred and fifty years, before these witnesses, Mathew Mackie, burrow-officer in Irvine, and the said Robert Crawford, witnesses to the subscription of the marginal note, place and date aforesaid, wrote by the said Robert Crawford.

(Signed) DANIEL STEWART.

(Signed) Mathew Mackie, *witness.*

Ro. Crawford, *witness.*

No. XIII.

BOND, Mr GEORGE SWAN to the FACULTY of PHYSICIANS and SURGEONS in No. 65 of Process.
Glasgow, 1st August 1785.

I, George Swan, surgeon in Dumbarton, licensed by the Faculty of Physicians and Surgeons in Glasgow, to practise surgery and pharmacie, within the bounds subjected to their jurisdiction, by Royal charter ratified by act of Parliament, do acknowledge the said license to be granted with the exception of the city of Glasgow, and its liberties,—and I accept it as containing the said exception ;—and I promise, and hereby bind myself, if ever I shall settle in the said city, or its liberties, to practise physic, surgery, or pharmacie, to pay, previous to my said settlement, or upon the first term of Candlemas, Whitsunday, Lammas, or Martinmas thereafter, to the collector of the said Faculty for its common interest, the sum of twenty-five guineas, or whatever other sum shall be the freedom fine exacted for the admission of a Town practitioner at that time ; together with a fifth part of the said sum in name of penalty, in case of failure ; and I hereby declare, that the term of payment shall be determined by a certificate under the hand of the Faculty's officer for the time, specifying the period when I begin to practise as aforesaid ; and the amount of the freedom fine then payable, shall be ascertained by an extract from the records of the Faculty, subscribed by their clerk ; and I hereby dispense with any more formal or legal mode of proof of these facts, upon which it might have been competent for me to insist ; and I consent to the registration hereof, with the said certificate and extract, as relative hereto, in the books of Council and Session, or of any other competent Court for preservation ; and that letters of horning, on six days charge, and all other necessary execution, may pass hereon in common form, and constitute pror's, &c.

In witness whereof, I subscribe these presents, written on stamped paper by John Greenshields, clerk to James Hill, writer in Glasgow, at Glasgow the first day of August one thousand seven hundred and eighty five, before these witnesses, the said John Greenshields, and John Armour, officer to the said Faculty.

(Signed) GEO. SWAN.

(Signed) John Greenshields, *witness.*
John Armour, *witness.*

No. XIV.

LIST of DECREETS, and HORNINGS and CAPTIONS thereon, at the Instance of the PHYSICIANS and SURGEONS of GLASGOW, against IRREGULAR and CONTUMACIOUS PRACTITIONERS.

1. Decreet against Gurnall, Swan, and others, dated the 3d day of May 1725.
2. Do. against Robert Gurnall, dated the 3d October 1726–7, November same year, and 7th November 1727.

3. Decreet against William Breadine and William Porterfield, dated the 3d May 1731.
4. Do. against William Caldwell, dated the 4th February 1732.
5. Do. against Archibald Cuninghame, dated the 5th January 1744.
6. Do. against William Barber, dated 5th March 1744.
7. Do. against William Green, dated the 2d October 1749.
8. Horning thereon, dated the 2d Nov. 1749, and execution thereon.
9. Caption against William Johnston, and several others, dated the 21st September 1749, with certificate thereon of Daniel Stewart, one of the persons being imprisoned in Irvine Jail.
10. Horning against Thomas Leweis, dated 28th Nov. 1749, and execution thereon.
11. Decreets against George Moodie, servant to the said Thomas Leweis, dated the 7th Nov. 1748, 5th Dec. same year, and 6th Feb. 1749.
12. Caption against Hugh Reid, dated the 31st July 1750.
13. Decreet against Robert Randall, dated the 2d July 1753.
14. Do. against John Graham, dated the 7th Oct. 1754.
15. Horning against Joseph Johnston, dated the 3d July 1750, and execution thereon.
16. Horning against James Graham, dated 30th March 1756, and execution thereon.
17. Horning against James Calder, dated the 8th August 1759, and execution thereon.

No. XV.

No. 21 of Process. Extract DECREET of DECLATOR, the CHIRURGIANS of GLASGOW,
versus the MAGISTRATES and COUNCIL of GLASGOW. Dated 28th *July*
 1691.

At Edinburgh, the 28th day of July jayvij and nyne tie ane years, aent the summons and action of declarator, raised, intentit and persewed befor the Lords of Council and Session, att the instance of Robert Houstoun, present Deacone of the Chirurgions of Glasgow, for himself, and in name and behalf of the remanent members of the said Incorporatione, against John Anderson, present provost of Glasgow, William Naper, John Aird and Robert Brock, present baillies yrof; James Pedie, dean of guild ther; John Waddrop, deacon-convener ther; George Buchanan, threasurer yrof; John Leckie, Matthew Cummings, alder and younger, John Gibson, John Stirling, James Cumming, George Robertson, James Stewart, James Sloss, Thomas

Peter, Stephen Crawford, George Nisbet, John Paterson, Peter Corbett, William Barclay, Simeon Tennant, John Gray, John Robertson, Thomas Pollock, George Muirhead and Gavin Wood, all present councillors of the said burgh of Glasgow, and all others having, or pretending to have interest in the said matter, for their interest, makeand mentione, Where King James the Sixth, be his letter of gift and commission, under the privy seal of the kingdom of Scotland, dated the penult day of November, jajvij and fourscore and nyntein years, for the causes therein mentioned made, constituted and ordained the visitors in the said airt and calling of chirurgerie, within the said brugh of Glasgow, and his successors, indwellers in the said brugh, commissioners to the effect underwrytten, giveand grantand to them full power to cause summond and convein before them, within the said burgh of Glasgow, or any oyrs the burrows of public places, of the sheriffdoms and burghs of Renfrew, Dunbar-ton, Clydesdail, Lanark, Kyle, Carrick and Cunningham, all persons profes-sing or using the said airt of chirurgianrie, and examine them upon their literatur, knowledge, and practice, and gif they be found worthie, to allow and approve them, give them testimonials, &c.—[Here the gift is quoted,]—As in the said letters of gift and commission under the privie seall, att mair length is contained, Whilk commission the provost and baillies of Glasgow promised and fortified, and to maintain you therein, by their act, daited the nynth day of February Jajvij years, conform to which gift and power committed to you yrby, the saids visitors, and yr successors, for the weel of the subjects anent the saids airts, have made severall rules and statutes, and specially, by yr act, the 3d day of Junij Jajvij, and two years, the deceist Master Peter Low and Mr Robert Hamiltone, with several of the bretheren of the said trade, having conveined with the then Magistrates of Glasgow, notwithstanding the said Mr Peter and Mr Robert their nomination in the said gift, to be chief chirurgeou and professor of medicine within the said bounds, they were content, and consented that ilk year, once at Michaelmas, should be leitted amongst the bretherine, and who, be manyest votts, beis elected to remain visitor for a year yrfter, and sua forth yearly, in all tyme coming, and also were content that the per-sons therein mentioned, bretheren of craft, then admitted be them, should have power and libertie to use their craft and calling, als far as ymselves, after their knowledge. And that they shall not visit any of the foresaid bretherines patients, being uncalled, without their own consents and the patients first had and obtained yrto, whilk brethrin being present, consented to concur, assist and hade hand to: And yrafter, they elected their Visitor, Clerk and Officer of Court, who made faith *de fideli*, and appoynted Courts to be houlden in common form, as the said Act more fully bears. Lykeas, upon the seventine day of the samen month, and year foresaid, the said Mr Robert Hamilton, yr Visitor, and the bretherine of the said airt, having mett, they elected four of their number to be Quarter-Masters whill Michaelmas then next. And yrafter, with ane consent, Statute and Ordained, that if any yrof con-vein with the Visitor, for setting down of any good Ordour should be sufficient. Also, if any of them, or others of the brethrin, being warned personally to any conventiones, and not compearand, should pay Ten Shillings of penalty, with-

out a reasonable cause ;—to be applyed to such use as the Visitor and his Masters should think expedient. As in the said act, with the former, extracted out of yr records by the Clerk of Court, beirs,—conform to the quhilke foresaid gift, the Visitors, Professors of Chirurgianrie and Pharmacie, have prosecuted several processes, and obtained decreitts against unfreemen. And particularlie, Mr James Hamilton, late visitor in the said airt and calling, did, upon the last day of July Jajvj & threttie fyve years, obtain decretit before the Lords of Council and Session, decerning and ordaining Letters of Horning to be direct on ane simple charge of three days, chargin all and sundrie persons whatsomever, professing and using the said airts within the bounds forsaide, in generall, or by yr names in speciaill, as they shall be required, to desist and ceas frae all using or usurping of the said airts within the said bounds, except they be examined be him and his brethrin of airt, and their successors, and from using of any medicine, or selling of droggs, under the penaltie expressed in the said letters of gift, and that they do nothing contrair yrto, under the penalties yrin mentioned, as the said decretit fully bears. Likeas, the visitor and remanent brethrine of the said airt obtained the foresaid gift ratified by King Charles the Second, with advyce of the Estaits of Parliament, upon the eleventh day of September Jajvj & seventie two years, in the haill heads, articles, clauses and circumstances of the samen, as the said ratification, extracted out of the records of Parliament, fully bears. As also, the Provost, Baillies and Council of the said Burgh of Glasgow, be yr severall acts and ratifications have ratified and approuven the severall acts made by the visitors and brethren of the said airt for the weill and profit of the said incorporation, as the said severall acts, made be them in favours of the persewers and their predecessors, fully bears. And particularly, the present Provost, Bailies, and Counsel of the said burgh, being conviened, upon anc supplicatione given in to them be the Chirurgians of the said burgh, and deacons of crafts for ym selves, and as representing the haill Incorporationes of Crafts, within the said burgh, subsuming, that whair they have bein united with the Incorporation of Trades, according to the foresaid Gift, granted to them be King James the Sixth, of the dait the said penult day of November Jajvji & nyntie nyne years, Be virtue qrof, they were empowered to make acts for the weil and behalfe of yair said Incorporatione ; and that, accordingly, they, for preventing the prejudice that might arise through the promiscuous admission of strangers, to practise chirurgianrie and pharmacie within the City of Glasgow, for the future, did, by their act, daited the twentie fyfth day of March Jajvj & seventie nyne, unanimously statut and ordain, that nae person or persons whatsomever, shall at any tymc coming, be admitted to practisic any of the saids airts of Chirurgianrie and Pharmacie within the City of Glasgow, but such as either have served yr apprentis-ship with ane freeman or member of the Faculty for the tyme, for the space of fyve years, conform to the indentures, *in communis forma*, and have, conform yrto, received from his master, meat, drink, and bedding, within his house, the said space, or otherways be ane freeman's son, or married to ane freeman's daughter, with the qualifications always suitable and necessar for either of the saids airts, with that provision always, that it should be in the power of the Magistrates of Glasgow, for the tymc, (in case

of deficiencie of qualified persons chirurgians in the place), to call ane or more weil experienced in the said airts to reside in the City, the intrants in that case being always subject to the tryal of the Faculty for yr qualifications, and paying the freedom fynes for the maintenance of the poor, according to yr acts and statutes—as an extract of the said act, of the dait foresaid, subscrybd be the haill members of the Facultie, under the hands of Adam Wilson, their clerk, beirs :—And that the Magistrates of Glasgow, upon a petition presented to them be Master Hendry Marshall, desyring them to give and grant to him full power, license and libertie, to sett up and exercise the airt of Chirurgery and Pharmacie within the said burgh, (though he had neither served his prenticeship yrin, nor was ane freeman's son, married ane freeman's daughter in the terms of the foresaid act), had, by yr decreit, dated the twentie third day of September, Jajvj & seventie nyn, given and granted to the said Master Hendry Marshall, supplicant, full power, license, and libertie, to sett up and exercise his calling as Chyrurgian and Apothecar and Pharmacian, within the said burgh, as amplie in all respects as if he were admitted freeman within the said calling of Chirurgians, as in the said petition and act at length is contained,—the granting whereof had ruined the whole Incorporatione of Chirurgians, and made them separate from the rest of the Incorporations of Trades, soe that they all had sustained a considerable loss in the maintenance of their whole power, CRAVING, THEREFORE, the said Magistrates and Counsel to restore the foresaid Incorporation of Chyrurgians to their former liberties and priviledges, in ratifieing, approving and confirming to them, and their successors, thair said particular Act, by yr Act of Counsel ; and likeways to Rescind and Annul that Act, granted by their predecessors to the said Mr Hendry Marshall, whilk has been usual and practical when any such Act has bein made that was prejudiciale to the trade : and particularly, be an Act whilk was granted in favour of umql. John Johnstown, wright, who had receaved ane Act of Counsel for upsetting over the bellie of that trade, which yrafter was by them Rescinded by ane posterior Act, daited the fourtein day of February, Jajvj & fyftie seaven, produced with the former two Acts, all which being the humble petition, not only of the Chyrurgians, but of the haill Incorporation of Trades, and will be the mean to reunite the said Incorporatione of Chyrurgians, that soe, in all tyme coming, they may live in love and peace with the rest of the Incorporationes of Trades, as the said petition fully beirs. The saids Provost, Baillies, and Counsel, for them and their successors in office, have, by their act, daited the nynty of May last, not only ratifyed and approvin of the foresaid act, made be the saids petitioners, for the weil and profitt of their said Incorporatione, daited the said twentie fift day of March Jajvj & seventie nyne, but did likeways rescind and annull the foresaid act of the Magistrates and Counsel, granted in favours of the said Mr Hendry Marshall, of the daite the said twentie third day of September Jajvj & seventie nyne years, foresaid, and declared the same to be null, and of no availl, force nor effect, as if the samen had never been made nor granted, as the said act, of the dait foresaid, under the hand of George Anderson, commoun clerk of the said burgh, in itself more fully bears and proprots. *By virtue* of which gift, ratificatione foresaid, and possession, the saids.

visitors, and yr successors, have the undoubted right of licentiating and authorising fitt and skilled persons in the said airt and trade, and debarring all such as are not duly authorised from all practice and exercise of the said trade ; and, particularlie, of debarring all such as have not served yr apprenticeship in the town of Glasgow, or have not married the daughter of ane freeman of the said Incorporation, and also tryed and found qualified ; and to ordour the manner of the election of their successors ; and also to fyne all unfreemen exercising the samen trade : And likeways, that the Magistrates and Counsel of Glasgow have no right nor power to warrand nor authorise any persons to exercise Chyrurgerie or Pharmacie within the city of Glasgow, except such as are duly approven by the visitors, conform to the rules and statutes made anent the admission of fitt persons for that effect ; which rules did require due tryall of the qualifications of the persons to be admitted thereto ; And also, it ought to be found and declared, that any warrant and allowance granted by the late Magistrates of Glasgow in favours of any person whatsomever, who was not duly admitted nor tryed, to sett up shop, and practise within the said burgh, was voyd and null ; and the Magistrates and Counsell could not give to the saids personnes legal warrand or power to set up ane shop, or exercise Chirurgianrie and Pharmacie, except by consent of the visitors, and conform to the rules appoynted by ym ; nevertheless the persewers rights and privileges being impaired and encroached upon by the foresaid act of Counsel, necessar it is, that the rights and privileges be declared, conform to the Gift of King James the Sixth of blessed memory, and the several Acts and Constitutions in persewance yrof, ratificatione of the same, and decreitts *in foro* against unfreemen thereupon ; And particularlie, that the Magistrates and Counsell of Glasgow, and their successors in office, have no right or interest to give warrand or authority to any person whatsomever to exercise and practise Chirurgianry or Pharmacie within the City of Glasgow, or privileges thereof, unless the person soe authorised be first tryed and duly admitted, conform to the rules and statutes of the trade, pursuant to his late Majesty's gift in their favours, and that the foresaid last act of the Town Counsell of Glasgow, rescinding the former, was an act of meer justice and right, with this provision always, that yre be a competent number of sufficient and qualified persons, duly authorised be the persewers, and yr successors, to exercise within the said burgh ; *And anent* the charge given to the saids Provosts, Baillies, Dean of Guild, Deacon Convener, Threasurer, and haill Town Counsellors of the said Burgh of Glasgow, defenders, and all oyrs having, or pretending to have interest in the said matter, for yr interest, to have compeared before the said Lords, at ane certain day now bygone, To have heard and seen the persewers rights and privileges declared, conform to the foresaid Gift of King James the Sixth, and the severall acts and constitutions in pursuance thereof, ratificatione of the samen, and decreits *in foro* against unfreemen yrupon. And particularlie, that the Magistrates and Town Counsell of Glasgow, and their successors in office, have no right or interest to give warrand or authority to any person whatsomever to exercise or practise chirurgianrie or pharmacie within the

City of Glasgow, or privileges thereof, unless the persons soe authorised be first tryed and duly admitted, conform to the rules and statutes of the trade, pursuant to his late Majesty's Gift in their favours ; and that the foresaid last Act of the Town Council of Glasgow, rescinding the former act in favours of the said Mr Hendry Marshall, was, and has bein an act of meer justice and right, with this provision always, that there be a competent number of sufficient and qualified persons, duly authorised by the persewers, and their successors, to exercise within the said burgh, after the form and tenour of the said Gift, ratificatione yrof, Town's last Act of Counsell, and decret against unfreemen, above exprest, in all poynts, as in the prin'll lybelled summons of declarator, raised in the said matter, at mair length is contained.—The said Robert Houstown, present Deacon of the chirurgians of Glasgow, for himself, and in name and behalf of the remanent members of the said Incorporatione, Persewar, COMPEIRAND be Master Hugh Dalrymple, advocate, his procurator, *wha*, for instructing the points and articles of the forsaid lybelled summonds, *produced* in the presence of the saids Lords, the foresaid letter of Gift and Commission granted by King James the Sixth, under the Privie Seal of the kingdom of Scotland, to the saids visitors of the said airt and calling of chirurgianry, within the said Burgh of Glasgow, and their successors, indwellers in the said Burgh, dated the said penult day of November Jajvi & fourscore nynetein years : *Item*, The foresaid Act of the then Magistrates of Glasgow, in favours of the Persewars' predecessors, narrating, that the saids Provost and Baillies of Glasgow being sitt, and in judgement in the Counsel-house yrof, and that they having had inspection, and advised with our Soveraigne Lord's letter of Gift and facultie granted to Master Peter Lowe, Master Robert Hamilton and William Spang, and their successors, professors of yr airts exercising the privileges, libertie and statutes of these arts, granted by his Majesty to them and their successors,—as their said letter of Gift, under the Privie Seall, at mair length bears : Hes promiset to hauld hand, concur, fortifie and maintain ym and yr successors in the samen, and liberties granted to ym, in all poynts, provyding that the samen, nor no acts that they shall happen to make, shall be prejudicall nor hurtful to the common weal and libertie of the towne in tyme coming,—whilk Act is dated the said ninth day of February Jajvj years. *Item*, The extract of the forsaid two Acts, made be the said chirurgians of Glasgow, one yrof daited the said third day of Junii Jajvj and two years, and the oyr yrof, daited the seaventine day of the said month and year. *Item*, The foresaid decret, obtained at the instance of the said Mr James Hamilton, Chirurgian, then visitor in the said airt and calling, within the said Brugh, for himself, and in name and behalf of the remanent brethrine and freemen of the said airt and calling, and their successors, against the saids unfreemen, and also the Provost and Baillies of the Burrows of the Shyres mentioned in the said letter of Gift, whilk decret is dated the said last day of July Jajvj and threttie-fyne years. *Item*, The foresaid ratificacione of the foresaid letter of Gift granted by King Charles the Second, with the advice of the Estates of Parliament, dated the said eleaventh day of September Jajvj and seaventie-twa years. *Item*, The foresaid act of

the Town-Counsel of Glasgow, granted be the present Provost, Baillies, and Counsel of the said brugh, defenders, in favours of the said Incorporation of the chirurgians and Pharmacians of the said brugh of Glasgow, daited the said ninth day of May Jajvj and ninetie-ane years, all of the rex'ive tenors and contents particularlie above mentionat : *And the saids* John Anderson, present provost ; William Napier, John Aird, and Robert Brock, present Baillies ; James Peddie, Dean of Guild ; John Waddrop, Deacon Convener ; George Buchanan, Threasurer, and haill remanent Town Counsellors of the said brugh of Glasgow, above named, defenders, *compear-* and be James Stewart, sen., and Mr John Kincaid, Advocates, their Prors. : —The whilk lybelled Summons of Declarator, Letter of Gift, act of the then Magistrates of Glasgow extract of the foresaids twa acts made be the saids Chirurgians, decreit, ratificatione, and act of the saids Magistrates and Town-Counsel of Glasgow, defenders,—all produced be the said Persewars' pror. for instructing the poynts and articles of the samen summonds, in manner above expresst, together with the repeited lybel, and desyre craved be the Persewars' pror., alledgeance or answer made be the defenders prors. thereagainst, and duply proponed be the Persewars pror. yrto, all in manner after mentioned, being heard, read, seen and considered be the said Lords, and they yrwith being weil and rypelie advysed, *the Lords* of Counsell and Session has FOUND, and hereby FINDS and DECLARES the said Chyrurgians of Glasgow, their privileges, in terms of the foresaid gift and ratification, and possessione, of debarring unfree-men, lybelled upon : *And particularlie* that the Visitors of the Chirurgians at the time of the said gift, and their successors ever since, and in all tyme coming, had, and have right to make rules and statutes anent the dispensing of the said airt, and to ordour the manner of the election of their successors, and also to make rules anent the admission of fit and qualified persons for the practice of the said airt and trade, and to debar all others from the exercise yrof, who are not duly admitted, conform to the said rules ; and particularlie, to debarr all such as have not served their apprentis-ship in the town of Glasgow, or have not married the daughter of ane freeman of the said Incorporation, and also tryed and found qualified ; and to fyne all unfreemen exercising the same in the soume of fortie ponds Scots, *toties quoties*, conform to the said gift : And also, FINDS AND DECLARES, that the Magistrates and Counsel of Glasgow have no right nor power to warrand or authorise any person to exercise Chyrurgianry or Pharmacie within the city of Glasgow, except such as are duly approuven of by the visitors, conform to the rules and statutes made anent the admission of fit persones for yt effect, which rules do require due tryal of the qualifications of the persons to be admitted yrto : And siclyke, the said Lords FINDS and DECLARES, that any warrand and allowance granted by the late Magistrates of Glasgow in favours of any person whatsomever, who was not duly admitted nor tryed, to sett up shop and practise within the said burgh, is void and null, and that the saids Magistrates and Counsell could not give to the saids persons legal warrand or power to sett up ane shop, or exercise Chirurgianrie or Pharmacie, except by consent of the visitors, and conform to the rules appoyneted by them ; DECLARING always, with this express qualtie and provision,

that the saids Persewars and their successors, shall, from tyme to tyme, provyde the said Brugh of Glasgow, and liberties thereof, with ane competent and sufficient number of qualified and sufficient persons for the exercise and practice of the foresaid airt and trade, and that they enact nothing prejudicial to the weal of the said Brugh ; *Because*, at the tyme of the calling of the said matter, the said Mr Hugh Dalrymple, advocate, pror. for the said Robert Houston, for himself, and in name and behalf foresaid, persewar, repeited his lybel, and craved that the privileges of the Chyrurgians of Glasgow might be declared in the terms of the Gift, Ratificatione, and possession, of debarring unfreemen lybelled upon, and especially that the visitors of the Chyrurgians at the time of the Gift, and their successors ever since, and in all tyme coming, had, and have right to make rules and statutes anent the dispensing of the said airt, and to ordour the manner of the election of their successors, and thereafter to make rules anent the admission of fit and qualified persons for the practice of the said airt and trade, and to debarr all others from the exercise thereof, who are not duly admitted conform to the said rules. And particularlie to debarr all such as have not served their apprentis-shipp in the town of Glasgow, or have not married the daughter of ane freeman of the said Incorporation : And also, tryed and found qualified, and to fyne all unfreemen exercising the samen, in the soume of fortie punds Scots, *toties quoties*, conform to the said Gift. And likeways, that the Magistrates and Town-Counsel of Glasgow have no right nor power to warrand or authorise any person to exercise Chyrurgianrie or Pharmacie within the City of Glasgow, except such as are duly approven of by the visitors, conform to the rules and statutes made anent the admission of fit persons for that effect. Which rules do require dew tryal of the qualificatiounes of the persons to be admitted thereto. And alsoe, it ought to be found and declared, that any warrand and allowance granted by the late Magistrates of Glasgow, in favours of any person whatsomever, who was not duly admitted nor tryed, to sett up shops, and practise within the said Brugh, was voyd and null. And the Magistrates and Counsel could not give to the said persons legal warrand or power to sett up ane shop, or excrise Chirurgianry or Pharmacie, except by consent of the visitors, and conform to the rules appointed be them ; whereunto it was answered, and alleged be the said James Stewart sen., and Mr James Kincaid, advocates prors. for the saids Magistrates, Dean of Guild, Deacon Conveiner, Threasurer and Town-Counsel of Glasgow, Defenders, that no such declarator could be sustained, because it might happen, that the visitors might refuse to try or admit ane sufficient number of qualified persons for the exercise of the said airt or trade within the City, of purpose to inhaunce employmet or advantadge to themselves. *Secundo*, The visitors might make acts and statutes prejudicall to the commou weal of the Burgh, so that they cannot be declared to have ane unlimited power. Whereunto it was replied be the said Mr Hugh Dalrymple, advocate, pror. for the said Mr Robert Houstoun, for himself, and in name and behalf foresaid, Persewar : That, *primo*, he insisted in the foresaid conclusions, with this express qualitie, that the Incorporation and visitors should be holden to provyde the place with ane sufficient number of skilful and qualified persons, if any complaint

should be offered that the city was not provyded, the corporation will always be ready to clear and take off the same. *Secundo,* The Persewar does not insist for ane unlimited power for making any acts prejudicall to the weal of the lieges, but only for making acts for the weal of the subjects. Yet they, being intrusted by their original Gift, and other rights, with the making of these acts and constitutiones, they only, and not the Magistrates and Counsel of Glasgow, are competent judges what acts and statutes are fit to be made, in relation to the dispensing of their own airt and trade, and in relation to the tryal and admission of skilful persons yrto, and yr right of consent being so qualified, that there is always ane sufficient number to be provyded for the place, there is no hazard of their appoynting any Acts prejudicall to the weal of the lieges: The whilk lybelled Summons of Declarator, Letters of Gift, Act of the then Magistrates of Glasgow, extract of the foresaid two Acts made be the said Chyrurgians, Decreit, Ratification, and Act of the said Magistrates and Town Counsel of Glasgow, Defenders, all produced be the said Persewars' procurator, for instructing the points and articles of the samen Summonds; together with the repeated lybel and desire craved by the Persewars' Pror., allegiance or answer made be the Defenders' Pror. yragainst, and duply proponed be the Persewars' Pror. yrto, all in manner above mentioned, being heard, read, seen and considered be the saids Lords, and they yrwith being weill and ripely advised, the Lords of Counsel and Session DECLARED, in the terms above mentioned, with this express qualitie and condition, that the Persewars and their successors should, from tyme to tyme, provyde the Town of Glasgow, and liberties yrof, with ane competent and sufficient number of qualified and sufficient persons for the exercise and practice of the said airt and trade, and that they enacted nothing prejudicall to the weal of the said Brugh: And therefor, and in respect yrof, the said Lords GAVE and PRONOUNCED the Decreit and Sentence in the said matter, FINDING, DECLARING, DECERNING and ORDAINING, in manner above mentioned.—*Extractum de Libro Actorum per me (sic subscribitur.)—H. GIBSON.*

No. XVI.

ACT of ADJOURNAL of the CIRCUIT COURT of JUSTICIARY,
declaring that the MEMBERS of the FACULTY of PHYSICIANS and SURGEONS are, by virtue of the Charter, exempted from serving as Jurors,—12th October 1709.

CURIA Itineris Justiciaria S. D. N. Reginæ, tenta in Praetorio Burgi de Glasqua, duodecimo die Mensis Octobris, millesimo Septengentesimo nono, per Honorabiles Viros Magistrum Joannem Murray de Bowhill, et Magistrum Dugaldum Stewart de Blairhall, Commissionarios Justiciaræ Dict. S. D. N. Reginæ.

Curia Legitimè Affirmata.

The which day, In presence of the said Lords, Compeared Doctor Peter Paton, Physician, Preses, and William Thomson, Chirurgeon-Apothecarie in Glasgow, present Visitor of the Chirurgeons there, In name of the haill Faculty and Society of the said Chirurgeons, and there represented, that upon occasion of Master Alexander Tran and William English, Chirurgeons and Members of their Faculty, they being returned to the said Court in the list of Assysers, they had produced to the Court ane *Gift* granted by King James the Sixth, under His Privy Seal, in favours of Master Peter Low, Chirurgeon, with the assistance of Mr Robert Hamilton, Physician in Glasgow, and their successors in office, dated the penult day of November, one thousand five hundred and nyntie nyne years; Whereby they are endowed with several ample privileges and immunitiess; and particularly they are expressly exeeemed from all Weapon-showings, Raids, Hosts, Bearing of Arms, Watching, Warding, Stenting, Taxation, Passing on Assyses and Inquests in Justice Courts, Sheriff or Burrow Courts, in Actions Civil or Criminal, notwithstanding of other Laws and Constitutions, Except in giving their Council in matters appertaining to the said arts: Together with *ane full ample Ratification* of the said Gift, and haill privileges therein contained, and speciallie of the said exemption from Assyses, In Parliament, dated the eleventh day of September, one thousand six hundred and seventy two: And likeways *Ane Ratification* of the said Gift by the Lords of Council and Session, dated the twenty eight day of July, one thousand six hundred and nynty one years: And farder, produced *Ane full and ample Extract of ane Judicial Instrument*, taken upon production of the said Gift and Ratification, and upon its being sustained, and exemption accordingly granted thereupon, in ane Court of Regality and Justiciary, held by the deceased Alexander Lord Blantyre, then Bailie of the Regality of Glasgow:..... And thereupon the saids Doctor Peter Paton and William Thomson, in name and behalfe of the haill Faculty, and their Successors in Office, *Did Crave and Desire*, that the said Lords would find the foresaid right of exemption of the said Faculty, and their Successors in office, from all Assyses, to be their undoubted right and privilege: And thereupon *Declare*, not only that the said Master Alexander Tran and William English are free from attendance on this Assye, but also that the Haill Members, Physicians and Chirurgeons, members of said Faculty, and their Successors in office, ought and should be exeeemed and free from attendance upon all Assyses, conform to the foresaid Gift and Ratifications, and the constant custom and practice which hath followed thereupon..... And the said Lords having seen and considered the said Gift, Ratifications and Instrument above mentioned, *did* thereupon, not only exeeem the said Master Alexander Tran and William English from attendance on this Assye, but lykewise *do ordain* the whole Physicians and Surgeons in Glasgow and their bounds, members of said Faculty, to be exeeemed hereafter, in all time coming, from attendance upon all Assyses whomsoever.

Sic subscribitur. J. MURRAY, I. P. D.

Extracted furth of the books of adjournal, by Alexander Ross, Depute-Clerk to the Justiciary Court.

(Signed) ALEX^B. ROSS, Cl. Dep.

No. XVII.

No. 22 of Process. EXTRACTS from DECREET—ROBERT WALLACE, Surgeon in Glasgow,
Collector to the Faculty of Physicians and surgeons there,

AGAINST

JAMES CALDER.

At Edinburgh, the 20th day of November, 1761 years, anent the Letters of Suspension, pursued and raised before the Lords of Council and Session, at the instance of James Calder, gardener in Glasgow, against Robert Wallace, surgeon in Glasgow, and present collector to the Faculty of Physicians and Surgeons in Glasgow, Mentioning, That where the said suspender was lately charged by virtue of letters of horning, raised at the instance of the said Robert Wallace, to make payment to him as collector foresaid, or to his successors in office, for the use of the poor of the said Faculty, of the sum of £80 Scots money, contained in two decreets, at the charger's instance, against the suspender, for his unwarrantable letting of blood, and dispensing of medicines within the Faculty's bounds, without being duly qualified and licensed by them; Most Wrongously and unjustly, considering it is of verity, That the copy of charge produced to the said Lords of Council and Session, does not bear before what judge the aforesaid decrets against the suspender were obtained: and it will hardly be necessary to inform the said Lords, that they were pronounced by the chargers themselves, because the suspender was informed, that on reporting the bill of horning, on which the said charge proceeds, many of the said Lords were of opinion, that the horning should be refused on that account, as it was seemingly unwarrantable, and apparently a handle for great oppression, which the said Lords seemed desirous to have tried in a suspension, at the very time they passed the horning. The suspender cannot complain of the said Lords for granting this horning, in respect, that such have been in use to be granted upon decrets of this kind; but had he had access to be heard against the horning, he would have humbly suggested, that it should not have passed, for this reason, that all such charges as ever were given, have been suspended by the said Lords; but the chargers have taken care never to bring any of them to be discussed,—for, in place of this, as they are Judges themselves, they let the suspended decrets go for nothing, and take out new decrets for the very same sums, which have often been made a handle for very great oppression. *Secundo*, It will appear from the pretended charter founded on by the chargers, and the ratification thereof, whereof a copy was produced to the said Lords, that they have no sort of power to give any decrets, as they are not the successors of the original patentees, which, by the aforesaid ratification, appear to be the Incorporation of Surgeons, Apothecaries and Barbers. Now, in the present case, the barbers are no ways concerned, and the Surgeons and Apothecaries are not at all incor-

porated, and the original corporation whereof they once were members, now exists in the barbers, and is alone exercised by them. *Tertio*, Though the chargers had the protection of the Barbers Incorporation, they have no power by the charter at all to judge, as that is thereby committed to the Provost, Bailies, Sheriffs, and other judges ordinary, who are to have one-half of the fines, and the visitors of the Barbers and Surgeons the other half. *Quarto*, Even the Judges Ordinary are not authorised to fine for any thing but contumacy for persons professing the act of chirurgery; their not appearing before the barbers and surgeons, to be examined upon their literature and knowledge and taking out from them testimonials of the art and knowledge, that the persons called appear to have, so as they may practise accordingly. Now, in the present case, the suspender was no ways contumacious, but did appear on being called, and set forth what knowledge he had of the herbs he raised in his garden, and what use he made of them; and as he did so in terms of the charger's charter, he can see no reason why they fine him if it be not they found he knew too much. They ought, therefore, to have given him a testimonial in terms of their grant, which does not authorize them to exact one-farthing of money for granting the same, nor, indeed, to exact a fine on any other consideration than that of contumacy, which was never the suspender's case; and yet, from the charge it appears, that they have twice fined him in £40 Scots, which is the greatest length they could have desired the Judge Ordinary to fine the most contumacious practitioner. And therefore, the foresaid decrets, with the letters and charges following thereon, are null, and ought to have been suspended upon the said suspender, in all time coming, without caution; Nevertheless, for obedience, the said suspender was willing to find sufficient caution, acted in the books of Council and Session, for payment making to the charger of the sums charged for, and that in case it should be found by the said Lords, that he Ought and Should do the same, after the discussing the reasons of suspension above written, and also for payment making of what further damages and expenses should be modified and decerned by the said Lords in case of wrongous suspending. And anent the charge warranted by the said letters, to have been given to the said charger, to have compeared before the said Lords, on a certain day byegone, bringing with him and producing the foresaid two decrets, with the letters and charges following thereupon, and execution of the same, and grounds and warrants whereupon they proceeded, to have been seen and considered by the said Lords, and to have heard and seen the same, whole tenor, effect and execution thereof *simpliciter* suspended upon the said suspender, in all time coming, for the reasons and causes foresaid, and others to have been insisted on at discussing; as in the said letters of suspension at more length is contained. The said charger compearing by Mr Thomas Millar, then his Majesty's Solicitor, now his Majesty's Advocate, and Mr James Stevenson Rodgers, advocates, his procurators, who, for him, Produced in presence of the said Lords, the foresaid two decrets charged on, obtained at the instance of the Physicians and Surgeons of Glasgow, against the said James Calder—The first thereof dated the 1st day of August 1757 years, whereby, for the causes therein specified,

the said Faculty of Physicians and Surgeons of Glasgow, did, in terms of the Royal Grants in their favours, confirmed in Parliament, amercite and fine the said James Calder in £40 Scots money, payable to the said Robert Wallace, their collector, and his successors in office for the use of their Poor, and did thereby prohibit the said James Calder from letting blood or dispensing medicines within their boinds, until first he was found qualified and licenced thereto, under the pain of £40 Scots, to be paid to their collector, for the purpose aforesaid ; and the other of the said decreets, dated the 1st day of January 1759 years, whereby, for the causes therein specified, the Faculty did, in terms of their said grants, further amercite and fine the said James Calder in £40 Scots, to be paid to the said Robert Wallace, or his successors in office, for the use of the Faculty's poor, as aforesaid. *Item*, Letters of horning following thereon, at the instance of the said Robert Wallace, against the said James Calder, dated and signeted the 8th day of August 1759, with an execution of charge on the back thereof, dated the 15th day of the said month of August, and year foresaid. *Item*, Gift under the Privy Seal, by King James the Sixth, in favours of Mr Peter Low, his then Majesty's Chirurgeon, and chief Chirurgeon to his dearest son, the Prince, and Mr Robert Hamilton, Professor of Medicines, and their successors, indwellers of the City of Glasgow, dated at Holyroodhouse, the penult day of November, 1599. *Item*, Ratification of the said gift, under the Privy Seal, in favours of the Chirurgeons, Apothecaries and Barbers in Glasgow, whereby his Majesty, with advice and consent of the Estates of Parliament, ratified and approved the said letter of gift, in the haill heads, clauses and articles of the samen, after the form and tenor thereof, in all points, in so far as the samen gift and the said ratification thereof could be extended, in favours of the then present Chirurgeons, Apothecaries and Barbers, within the Burgh of Glasgow, and their successors allenarly, and no further, which ratification is dated the 11th day of September, 1672 years. *Item*, Decreet of Declarator, obtained before the Lords of Session, at the instance of Robert Houston, then present Deacon of the Chirurgeons of Glasgow, for himself, and in name and behalf of the remanent members of the said Incorporation, against the Provost, Baillies and Town-Council of the Burgh of Glasgow, dated the 28th day of July, 1691, whereby the said Lords Found and Declared the said Chirurgeons of Glasgow, their privileges, in the terms of the foresaid gift and ratification and possession, of debarring unfreemen libelled upon ; and which gift, ratification and decree of Declarator, are more fully noticed in the memorials, petition, and answers, after insert. *Item*, Extract Procedure of the Faculty of Physicians and Surgeons in Glasgow, against the said James Calder, dated the 7th day of December, 1761 years, whereby the Faculty, (in respect the said James Calder refused to stand trial as to his qualifications anent blood letting,) Prohibited him from practising the same, or any other part of Surgery or Pharmacy, ay and while he should be found duly qualified and licensed, under the penalty of £40 Scots for ilk fault, *toties quoties*. And the said Suspender Compearing by Mr John Dalrymple, Advocate, his procurator, The foresaid Reasons of Suspension, writs foresaid produced, Rights, Reasons and Allega-

tions of the parties Compearing as said is, being all at length heard, read, seen and considered by the said Lords, and they therewith, and with the mutual memorials given in by the parties, depositions of the witnesses adduced, petition and answers all after insert, and whole other steps and procedure in the said matter, in manner before and after mentioned, being well and ripely advised, The Lords of Council and Session aforesaid, DECERNED and ORDAINED, and hereby DECERN and ORDAIN the said James Calder, to make payment to the said Robert Wallace, and his successors in office, for behoof of the poor of the said Faculty of Physicians and Surgeons in Glasgow, of the sum of £10 Scots, (to which sum the said Lords Restricted the fines aforesaid, imposed upon the said James Calder, in manner after specified,) and Assoilzied, and hereby assoilzie *quoad ultra*; But FOUND, and hereby FIND, upon the said Jamies Calder's subjecting himself to a trial and examination by the Physicians and Surgeons of Glasgow, of his knowledge and practice in the airt of letting blood, and upon his being found qualified to perform the same: That, in that case, the said Physicians and Surgeons are bound to give him license and testimonial, authorising him to that effect; and Found, and hereby Find, that the said James Calder has no right to prescribe or dispense diet drinks, or medicines of any kind, without being regularly authorised thereto: Because, after expediting of the foresaid letters of suspension, the same was called for at the minute-book, and being produced, the decreets and horning charged on, with the gift of ratification, were given out to the suspender's procurator to see; and being seen and returned, the said cause was thereafter inrolled in the suspension roll, and by course thereof having come in, upon the 13th day of November 1759 years, to be called in presence of the Lord Ale Moor, Ordinary in the Outer-House for the time, and parties compearing by their procurators before named, the procurator for the said Robert Wallace repeated the charge founded upon two decreets, &c.—[Here procedure in Outer-House narrated.]

And the said cause being thereafter, upon the twelfth day of July Jaivj and sixty years, called in presence of the said Lord Ale Moor, and parties compearing by their said procurators, his Lordship made avizandum to himself with the report of the act and commission, and former procedure in the cause. And by a subsequent interlocutor, of the fifth day of August Javij and sixty, upon considering the mutual memorials and proof adduced, his Lordship made avizandum therewith to the whole Lords, and ordained parties procurators to lodge their informations in the clerk's hands, in order to report, betwixt and the fifteenth day of November then next, with certification. And parties' doers having thereafter lodged copies of their informations in the clerk's hands, his Lordship, in respect thereof, granted warrant for inrolling the cause in the Inner-House Rolls, and appointed copies of the said informations forthwith to be put into the Lords' boxes. And the said cause being accordingly inrolled in the Inner-House Rolls, and being, by course thereof, upon the twentieth day of November Javij and sixty-one, reported by the said Lord Ale Moor, Ordinary, to the whole Lords, they, on report of the said Lord Ale Moor, turned the decree charged on into a libell, and restricted the

fines imposed upon the suspender to the sum of Ten Pounds Scots, and assailed him *quoad ultra*; but found, upon the suspender subjecting himself to a trial and examination by the chargers, of his knowledge and practice in the art of letting blood, and upon his being found qualified to perform the same, that in that case, the chargers are bound to give him a license and testimonial, authorising him to that effect; and found, that the suspender had no right to prescribe or dispense diet, drinks, or medicines of any kind, without being regularly authorised thereto, and decerned. Against which interlocutor the said James Calder gave in a petition to the said Lords, *shewing*, that in the suspension brought by the petitioner of a charge against him, on two decrets of the Faculty of Surgeons and Physicians in Glasgow, his Lordship, on the twentieth day of November Javij and sixty-one, pronounced the following interlocutor:—‘On report of the Lord Alemoor, the Lords turn the decree charged on into a lybel, and restrict the fines imposed upon the suspender, to the sum of Ten Pounds Scots, and assoilzie *quoad ultra*; but found, upon the suspender’s subjecting him to a trial and examination by the chargers, of his knowledge and practice in the art of letting blood, and upon his being found qualified to perform the same, that in case the chargers are bound to give him a license and testimonial, authorising him to that effect; and find, that the suspender has no right to prescribe or dispense diet, drinks, or medicines of any kind, without being regularly authorised thereto, and decern.’ Of this interlocutor the petitioner (Calder) humbly craved the review of their Lordships. The intention of the present petition is to show, *first*, that in pronouncing any decree against the petitioner, the chargers went beyond the bounds of their jurisdiction. *Secundo*, Supposing them to have a jurisdiction, yet, that in a decree pronounced, they went beyond the bounds of their powers; and from of a view of these it will be submitted to their Lordships what alterations fall to be made upon the interlocutor. It is very well known the easiness with which grants of any kind, either high or low, were obtained from that easy monarch, James the Sixth, to which the necessity in which he lived, as well as the natural turn of his temper, contributed; and therefore, in the year 1599, there appears a very extraordinary grant of that prince, the original one on which the present charge is founded.—(Here the grant is narrated.)—On this grant the petitioner begged leave to make two observations—one which regards the jurisdiction created, another which regards the power given to that jurisdiction; it is necessary to distinguish them, because they will thereby, with more clearness, apply to the two first heads of this paper. And first, with regard to the jurisdiction created, it was represented by the chargers to their Lordships, and was understood by their Lordships, at advising, that it was given to Mr Low and Mr Hamilton, and to them and to their brethren, practisers in surgery and physic in the city of Glasgow, and to their successors, the practitioners of surgery and physic there, as a body; whereas, if their Lordships would examine the grant, with the criticalness it deserves, they would observe that it is a personal grant, not a general one—is limited to the grantees—to the person of one of them, and to the person and family of two others, and was never intended to the body of professors in surgery.

and medicine, as a body, neither at the time of the grant nor in future times. It is a grant obtained by two persons—one King's Surgeon, and the other Professor of Medicine, who were in favour with the King, for themselves and their families, provided they were of their profession, and not for the profession, independent of their families. This appears, from a fair comparison of the different clauses of the grant, so as to make it one coherent piece. The grant is not to the then practisers of surgery or medicine in the town of Glasgow, and their successors in office; but to one surgeon and to one physician specially named, and to their successors in common form,—that is, to them and to their heirs; and accordingly, in the concluding clause, the Magistrates within the bounds are ordered to assist, concur, and defend the said visitors and their posterity, professors of the foresaid arts, which shews, plain as can be, that it was a favour and a monopoly granted to two particular men, and to their posterity, provided they were professors of the said arts;—and what shews still farther that it was a personal favour, is, that whereas Peter Low was the King's surgeon, and Robert Hamilton the professor of medicine, and perhaps they might not have time, or might think it beneath them, to be inspecting every ounce of drugs that was sold, there was joined with them in the inspection of the drugs William Spang; but to him no successor is named; so that, upon his death, the inspection of the drugs was to return into the families of the original grantees, who, in future times, might be more willing alone to undergo that department than their forefathers, the original grantees, had been. The grant is not given to the Surgeons and Physicians in Glasgow as a body, and to their successors in office or profession—but to the grantees and their successors, or to the grantees and their posterity, professors of the said arts. Another observation relative to the jurisdiction created, is, That if the grant was intended to be continued in the successors in office of the grantees—that is, to the King's Surgeon, and the King's Professor of Medicine,—it would be inextricable, seeing that to William Spang there was no successor named, and to the places of King's Chief Surgeon and King's Professor of Medicine, there was, and is no continuation of succession.—(Here the Act of Ratification is narrated.)—This act narrates the former grant, and then, instead of confirming it, in favour either of the original patentees, to wit, Peter Low and Robert Hamilton, and their successors in family, provided these last were practisers of their father's arts, or in favour of the original patentees, or King's Surgeon and King's Professor of Medicine, and their successors, whoever they were, in these offices, it mistakenly supposes, that quite different persons from either of these suppositions, to wit, the Incorporation of Surgeons, Apothecaries, and Barbers, were the persons intended to be favoured by the grant, for which reason it Ratifies the grant in favours of that body of men; but then, as it justly occurred to be a matter of exceeding great doubt, whether a ratification to one set of men would be deemed a ratification of a grant given to a quite different set of men, this limitation is immediately added:—‘That the ratification is granted ‘in so far as the same gift and this present ratification can be extended in fa- ‘vours of the present Chirurgions, Apothecaries, and Barbers within the said

‘ burgh of Glasgow, and their successors, allenarly, and no farther.’ This last limitation confines the interpretation of the grant, as contended for, to wit, that it was personal to Peter Low and Robert Hamilton, and their families, provided they professed their fathers’ arts. At the time of the ratification, it was not impossible that some of their posterity might start up, who were professors of their forefathers’ arts, and claim the benefit thereof. The Surgeons, Apothecaries, and Barbers wanted to guard against this, and therefore, they take a ratification of the grant—not simply, for that might have hurt themselves,—but only in favour of themselves; and, for the same reason, the legislature, doubting whether such transfer of the benefits of the grant could be made, ratifies the grant in so far as it can be extended in favour of the new grantees. It will further be observed on this grant, that as it anxiously provides the grant to be extended to the Incorporated body of Surgeons, Barbers, and Apothecaries, allenarly, so it does not occur how the present Surgeons and Physicians of Glasgow, who are now unincorporated with the Barbers, and, who, indeed, are not an incorporated body at all, as shall be shown, can claim the continuation of a jurisdiction given to an incorporated body of men, made up of three separate bodies, to wit, Surgeons, Apothecaries, and Barbers. These observations upon this Act of Parliament, with regard to the continuation of the jurisdiction created, being made, it is next to be observed, with regard to the powers created, that, as it ratifies the powers contained in the original grant, so, this new jurisdiction of the Surgeons, Apothecaries, and Barbers, was circumscribed in its powers, over the bodies of men mentioned in the grant, to wit, Surgeons, Physicians and Apothecaries, by the terms of the original grant, and every exertion of their powers, or of those assuming their powers, must be tried by the terms of that grant. From that period down to the year 1719, this Incorporation of Surgeons, Apothecaries and Barbers, remained in existence; but at that period, to wit, in the 1719, the Surgeons and Barbers dissolved their Incorporation—separated from each other, and roused their lands and stock;—and the Barbers, having paid into the Convenor’s house of Glasgow, one thousand merks, obtained, in the year 1721, or thereabouts, a grant from the Magistrates and Town-Council, erecting themselves into a Corporation by themselves, who, ever since, chuse a Deacon, Master, Collector, and Clerk, as the other Incorporations do; since which time, the Incorporation of Surgeons and Barbers, in whose favour the above ratification was extended, if it could be so extended, is no more. But the Surgeons and Apothecaries did not, upon that occasion, or upon any other, apply to the Magistrates and Town Council for a settlement as an Incorporation; on the contrary, they, at their own hand, and without any such application, associated into their body the Faculty of Physicians of Glasgow, and in conjunction with them, from time to time, have been in use to hold meetings, and to make rules for their carrying on of their mutual business: from which it is plain, that the Physicians and Surgeons of Glasgow, thus associated at their own hand, are not a public Incorporation, but only a *Privatum Collegium*;—they are not a legal body,—they are properly no *nomen juris*, either as pursuers or defenders; and though their regulations may bind the members of their own So-

ciety, who, by coming into it, submit thereto, yet they cannot be binding upon the rest of mankind. For some time past, the petitioner has been in use, having great expertness therein, to blood those persons who were advised their healths required it, and who often were not able to employ Surgeons in a higher station of life, in the same way that a thousand other gardeners in Scotland do. On the 1st of August 1757, a decree was taken against the petitioner, not by the patentees in the original grant, to wit, Peter Low and Robert Hamilton, or their posterity, practising their forefathers' arts, on one supposition, nor by the patentees in the original grant, to wit, the successors in office of King's Surgeon and King's Professor of Medicine, on another supposition, nor by the supposed patentees in the ratification of that grant, to wit, the Incorporation of Surgeons, Apothecaries and Barbers in Glasgow, but by quite a separate body of men, and who seem to have no erection and legal establishment, to wit, the Faculty of Physicians and Surgeons of Glasgow. (Here the decree is narrated.) Therefore, the petitioner must repeat it, that this grant, which is an exception from the general law of Scotland, is entitled to no favour more than any other monopoly. And, so standing the case, the petitioner will take the liberty to say, that the connection of the chargers to this monopoly is most loosely made up in all its parts. For, *primo*, the grant was personal to Peter Low and Robert Hamilton, and their families, provided the successors in their families were of the profession of the original patentees ; and therefore, the chargers cannot take up the grant, unless they can subsume and say that they are the successors in the families of these original patentees. Such grants are no novelties in the law of Scotland ; there are many instances where patents have been granted to a man and his heirs carrying on a particular trade. In such cases, the patent will continue as long as the heirs continue in that trade ; but if the heirs should sell out to strangers, the effect of the patent would cease. It is well known that there is no more than one patent in Glasgow in this situation. *Secundo*, Supposing the patent was given, not to the persons and families of the original patentees, but to their successors in office, still their patent is ceased, because the original patentees have no successors in office ; for there is no such office now in Glasgow as the King's Surgeon or the Professor of Medicine, at least derived from the creation of James the Sixth ; and it is a very forced construction to extend the grant from two particular patentees, to a whole profession upon the deaths of these patentees. It would appear, that if James VI. intended the powers contained in the grant to ly in the profession of Physic and Surgery, he would have declared it to ly in the profession even during the lives of Low, Hamilton, and Spang, instead of seeming to say that it should go to the profession after their deaths. *Tertio*, But supposing the grant to belong to the profession, after the deaths of the patentees, still the effect of it would not go to the chargers, because, by the ratification 1672, it was taken out of those to whomsoever it belonged, upon the solicitation of the profession themselves, and lodged in the body of Surgeons, Apothecaries, and Barbers, which Incorporation is now dissolved ; and the Faculty of Physicians and Surgeons are so far from being a Corporation, that they only are one associated *Collegium*

of their own making, and for their mutual benefit, who have no *nomen juris* to act either as pursuers or defenders, and much less to erect themselves into judicatures, to sit as judges, to inflict penalties upon the rest of the subjects, and to be at once informer, judge, parties, and fisk over the extensive territory contained in the grant. To support the jurisdiction contended for, the chargers appealed to a decree of declarator in the 1690, at the instance of the Deacon of the Surgeons against the then Magistrates and Town Council of Glasgow, which, it was said, supposed a title in the chargers to connect with, and to vindicate the support of the grant, &c. Now, to apply all that has been said to the whole of the interlocutor, it is plain, that if the chargers had no right to pronounce any decree, either because they were not the successors of the families of the original patentees, or not their successors in office, *qua* King's Surgeon and Professor of Medicine, or by the deed of their predecessors, had been divested of their right of connexion with the grant, by the ratification 1672, which, upon the supplication of their predecessors, was limited to the Incorporation of Surgeons, Apothecaries, and Barbers, with whom, upon the dissolution of that Incorporation, the present chargers, the Faculty of Surgeons and Physicians, can connect no right, then it is plain that the letters fall to be *simpliciter* suspended, &c. Therefore, craving it might please their Lordships to alter the above interlocutor, and to suspend the letters *simpliciter*, either in respect the chargers have no title, or have exceeded their powers, and, at any rate, to strike out the declaratory, and last part of the interlocutor. According to justice, &c., as the said petition bears:—Which being, upon the 8th day of December 1761, read in presence of, and considered by the said Lords, they ordained the same to be seen and answered, and appointed the answers to be given into the boxes upon the 5th day of January then next, with certification that no answers would be received thereafter, without an amand of 40s. sterling. In obedience whereunto, there was given in for the said Robert Wallace, collector foresaid, the following Answers.—(Here the Answers are narrated, and the question of title is thus stated:)—*Secundo*, As to the rights or titles of the Faculty, the authority by which they were constituted cannot be impugned, nor can the reasonableness or wisdom of the institution be justly called in question. The Royal grant was intended to prevent abuses in the practice of physic and surgery. By it, two persons, Low and Hamilton, are appointed, there called the visitors, with the assistance of their brethren, to make statutes with regard to these arts, and to punish the breakers of them according to the fault. In these persons, with their brethren and successors, or posterity, professors of these arts, there is a jurisdiction established, and the method of exercising it, as well as the powers and extent of it, are fully described. And the right to this jurisdiction in the successors to the profession of these arts, is confirmed by the ratification in Parliament. No monopoly nor exclusive powers can from thence be pretended, or have ever been assumed. The petitioners' declamatory arguments, from some distant resemblance of this Faculty to corporations of mechanics, and patents for encouraging of manufactories, deserve no regard; and his observation, as if the patent were a taillie, that the connection of the chargers

to this right is loosely made up in all its parts—that the grant is personal, and they cannot take it up, unless they can subsume and say they are the successors in the family of the original patentees,—all this is extremely frivolous, not to say ridiculous. If the word successors is understood to be those who shall succeed to the family and estates of Low and Hamilton, then, by the same construction, their brethren in their families likewise were to assist in making statutes, and their brethren and successors were to meet to give advice to the poor ; and their brethren, present and to come, were to enjoy immunities and exemptions :—for that word, Brethren, is contained thrice in the original letters, though not so much as once mentioned in the garbled excerpts of the petitioner. The objection, that the right was, by the ratification, transferred in favour of the Surgeons, Apothecaries and Barbers, cannot surely be very material, when it is considered that the arts of medicine, pharmacy, and surgery, were often practised promiscuously, and professed by one man, and that the Barbers' business at that time was reckoned a branch of Chirurgery. This is a fact that cannot be disputed ; and it is certain, that all Physicians practising there, have always been members of the Faculty, though no mention is made of them in the ratification. Nor can it be any diminution of the rights of the Faculty, conferred by the King, and afterwards by the Parliament, that the same people, professors of the medical arts, had an additional right from the Town of Glasgow, as a corporation, by a seal of cause, with particular privileges, confined to that Town, and the extent of its royalty, which was confirmed by them in the year 1691, by a decree of declarator before the Court of Session, in the name of the Surgeons, the most numerous part, and collective name of that body—by which the sense or meaning of the Legislature is explained, agreeable to the construction put upon it by the charger ; and the sanction of their Lordships' authority is given to the various acts and regulations made by that Society, from its first erection. It is indeed true, that the first seal of cause was resigned, and that the Barbers, in 1719, obtaining a new Letter of Deaconry, became an entirely separate corporation ; but it is likewise true, that the business of the Faculty was always distinct from that of the Corporation ;—they had different times and places for meeting, and different minute-books were kept for their separate affairs, recording their particular proceedings. The reasons, however, of the total separation, certainly does not derogate from the rights or honour of the faculty. The Barbers' trade was become a mere handiecraft, and practised by the most ignorant of the vulgar, quite unqualified for the society of men of education and learning, who now justly deemed the business of the Corporation, and the contamination of borough politics, incompatible with their liberal professions. Upon this question, it is only necessary to add, that, besides the rights, their Lordships uniform practice, for one hundred and sixty years, in giving letters of horning upon such decrees, is sufficient to ascertain the powers of the Faculty, and to support the present charge. *Tertio, and lastly,* That the decrees under suspension are consistent with the rights and powers already explained, is demonstrable, from comparing the clauses in the grants with the acknowledgements and proof of the facts. In general, the transgressions of the rules established by the Faculty, or the visi-

tors and their brethren, may be punished and unlawed, according to the fault ; and particularly, the practice of medicine without a license or testimonial, is declared to be unlawful, under the penalty of forty pounds Scots, which is expressed both in the gift, and more explicitly in the ratification, besides the confirmation of it in the declarator, &c.—Which Petition, before written, and Answers foresaid made thereto, being, upon the 24th day of February 1762 years, read in presence of, and considered by the said Lords, they adhered to their former interlocutor, and refused the desire of the Petition.—And so the said Lord Ordinary, and Lords of Council and Session aforesaid, gave and pronounced their decree in the said matter, FINDING, DECERNING, and ORDAINING, in manner at length before mentioned ; and ordain letters of horning, on fifteen days charge, and other execution needful, to be directed hereupon, in form as effeirs. Extracted upon this and the ninety-nine preceding pages, by

ALEX. TAIT.

(The horning and poinding Wallace *against Calder*, dated and signeted 8th August 1759, upon which was raised the suspension in which the above decree was pronounced, is No. 23 of Process.)

No. XVIII.

No. 24 of Process. EXCERPT from FACULTY MINUTE of 24th November 1791, and Decree of Declarator of that Year, *against The MAGISTRATES*.

At Glasgow, the 24th day of November 1791 years,

SEDERUNT,

Dr THOMAS CHARLES HOPE,—*Preses*,

Mr SIMSON, *Visitor*, Dr WRIGHT, and Messrs WALLACE, WILSON, COUPER, ALEXANDER, M'LAUCHLAN, WILLIAM SCRUTON, TOWERS, PENMAN, MUSCHET, ANDERSON, HORNE, COWAN, ROLLAND & McLEAN.

The Preses laid before the meeting the following interlocutor pronounced by Lord Eskgrove, Ordinary, in the summons of declarator at their instance, against the Magistrates and Town Council, and Turnbull, which has been transmitted by Mr Anderson, their agent at Edinburgh.—‘ 16th November 1791.—The Lord Ordinary having considered the Libel, Condescendence, Answers, Replies, and Writs produced : In respect that the Magistrates and Council of Glasgow make no opposition to the three first conclusions of declarator, and that no appearance is now made for any other defender ; Finds, decerns, and declares in terms of these three conclusions thereof. But with

‘ regard to the other conclusions thereof, Finds that the writs produced, and facts condescended on by the pursuers, are insufficient to entitle them, and their brethren of the Faculty, to a total exemption from the burden of quartering soldiers; but in terms of the solemn judgment of the Court, referred to in the Answers to the Condescendence, Finds, that the pursuers are not liable to have soldiers billeted or quartered upon them for local quarters, *reserving* to the Magistrates, in the cases of transient quarters of soldiers, upon extraordinary occasions, when the houses of those liable to be quartered on in the case of local quarters are not sufficient to lodge the whole soldiers in the place, to extend the billeting and quartering to the houses of the pursuers, as well as those of the other inhabitants: *As also, finds of consent,* that the *pursuers* are not entitled to any exemption from being stented as well as other private heritors, for their proportion of the King’s cess or land-tax, conform to their lands or real property in the burgh. And before answer as to any of the pursuers being liable to the stent upon trade, for raising the said cess, or to other stents for poors’ rates or other taxes payable to the Town, Appoints the pursuers to give in a more special Condescendance of the particular taxations of that kind, from which they claim an immunity, and of the authority by which the same were imposed, and the usage or practice in levying the same; and therein particularly to say, whether such of the pursuers as are druggists, or keep shops for sale of medicines, do claim an exemption from trade stent, and have or have not in practice enjoyed such exemption.’

(Signed) ‘ DAVID RAE.’

The conclusions alluded to follow:—

1mo, That the Faculty or College of Surgeons and Physicians of Glasgow, pursuers, and their successors, members thereof, in virtue of the Charter and Act of Parliament above recited, have been entitled, and shall be entitled, in all time coming, to prevent all persons from practising the same within the said bounds, unless they have been previously examined by the proper Officers appointed by the said Faculty, with regard to their literature, knowledge, and practise, and approven of, and found qualified by them to practise the said arts, or without the testimonial of an famous University, or leave granted in manner mentioned in the said charter. And that it shall be lawful for the Visitors of the said Faculty to challenge, pursue and inhibit them from using and exercising the said arts of medicine, under the pain of forty pounds Scots, to be distributed, one half to the Judges, and the other half to the poor, *toties quoties*, if they be found exercising the same, ay and while they be qualified as said is.

2do, It Ought and Should be Found and Declared, by decree foresaid, that the said Faculty, in terms of their Charter and Act of Parliament, are entitled, with advice of their brethren, to make necessary regulations relative to the said profession of medicine within the said bounds.

3rd, ***It Ought*** and ***Should*** be Found and Declared, by decree foresaid, that no manner of persons whatever shall sell drugs of any kind within the said city of Glasgow, without such drugs being previously examined by the Visitors of the Faculty, and that under the pain of confiscation of the drugs so sold, or attempted to be sold by them.

Dr Wright, Mr Wallace, Mr Wilson, Mr Jamieson and Mr Alexander, are appointed a Committee to make out a particular condescendence in terms of the said interlocutor, to be transmitted to Mr Anderson,—any two a quorum, and Mr Wilson Convener.

No. XIX.

EXCERPTS from the Act of the 55th Geo. III. cap. 69, intituled ‘An Act to regulate Mad-Houses in Scotland,’

SECTION IV. And be it enacted, That within one calendar month after the passing of this act, and thereafter annually, the Royal College of Physicians in Edinburgh shall elect four of their ordinary resident fellows as inspectors of mad-houses; and that the *Faculty of Physicians and Surgeons in Glasgow* shall in like manner, within one calendar month after the passing of this act, and thereafter annually, elect four of their ordinary resident members as inspectors of mad-houses.

V. And be it enacted, That within two calendar months after the passing of this act, the sheriff-depute or substitute of Edinburgh or Mid-Lothian, shall employ any of the said four fellows of the Royal College of Physicians of Edinburgh, to inspect every house which shall be then kept for the reception, care and confinement of furious or fatuous persons, or lunatics, within the city of Edinburgh or county of Mid-Lothian; and the Sheriff-depute or substitute of Lanarkshire, shall employ any of the said four members of the said Faculty of Physicians and Surgeons of Glasgow to inspect every such house in Lanarkshire; and the sheriff, or steward-depute or substitutes in every other county or stewartry in Scotland, where any house shall be kept for the reception, care and confinement of furious or fatuous persons, or lunatics, shall employ for the said inspection, Physicians qualified to make such inspection, unless where local or other circumstances shall render it inexpedient to employ such Physicians; in which case, they shall employ either Members of the Royal College of Physicians of London, or of the Royal College of Physicians of Edinburgh, or of the Royal College of Surgeons of Edinburgh, or medical men having a diploma from the Royal College of Surgeons of Edinburgh, or from the Royal College of Surgeons of London, or from the *Faculty of Physicians*

and Surgeons in Glasgow, or who have acquired a right to practise from having served in the Army or Navy.

IX. And be it enacted, That every certificate or report, upon which a sheriff-depute or substitute shall give an order for the confinement of any person in a house kept for the reception, care and confinement of furious or fatuous persons, or lunatics, shall be signed by a medical man, who is either a physician, or has a diploma from the Royal College of Surgeons in Edinburgh or of London, or from the *Faculty of Physicians and Surgeons of Glasgow*, or who has acquired a right to practise from having served in the army or navy, except in those cases where no medical man of the above description can be conveniently applied to; in which event, such certificate may be signed by any medical practitioner of character, whom such sheriff, or stewart-depute, or substitute, may think proper to employ.

XII. And be it further enacted, That it shall be lawful to any of the said inspectors, appointed by the Royal College of Physicians in Edinburgh, at any time, with concurrence of the Sheriff-depute of Mid-Lothian, and to any of the said inspectors appointed by the *Faculty of Physicians and Surgeons of Glasgow*, with concurrence of the sheriff-depute of Lanarkshire, to inspect any such houses for the reception, care and confinement of furious or fatuous persons, or lunatics, within the respective districts of the said sheriffs, and to report to the said sheriff-deputes: Provided always, that for such inspections, no sum of money shall be paid, and no allowance given for attendance and trouble.

No. XX.

DECREE pronounced by the MAGISTRATES OF GLASGOW, in process at the instance of the FACULTY OF PHYSICIANS and SURGEONS of GLASGOW against ALEXANDER DUNLOP, Junior, 14th January & 4th March 1791.

No. 66 of Process.

At Glasgow, the fourteenth day of January, and fourth day of March seventeen hundred and ninety-one years,—Sitting in judgement, Richard Marshall, and John Hamilton, junior, Esqs., two of the Bailies of the Burgh of Glasgow, respectively, anent the libelled summons raised and pursued before the Magistrates of Glasgow at the instance of John Jamieson, visitor, and Robert Simson, collector to the Faculty of Physicians and Surgeons in Glasgow, with concurrence of David Hutcheson, writer in Glasgow, Procurator-Fiscal of Court, dated and subscribed by the Clerk of Court, at Glasgow, the 15th day of November 1790, and stating, That by charter, dated the penult

day of November 1599, granted in favour of the Physicians and Surgeons of Glasgow, and ratification thereof by Parliament, dated the 11th of September 1672, they were empowered to call, summon, and convene before them, within the said burgh of Glasgow, or any of our said burghs or public places of the bounds specified in the said Grant, all persons professing or using the art of chyrurgery, to examine them upon their literature, knowledge, and practice, if they be found worthy to admit, allow and approve them, give them testimonials according to their art and knowledge, that they shall be found worthy to exercise thereafter, receive their oath, authorise them as accords, and to discharge them to use any further than they have knowledge passing their capacity, least the subjects be abused; and in case they be contumacious, to be lawfully cited, every one to be unlawed in the sum of fourty pounds Scots, *toties quoties*, half to the judge, and the other half to be at the visitor's pleasure; and, for payment thereof, letters of horning were directed to be issued against them on a charge of twenty-four hours. That the Faculty of Physicians and Surgeons had been in the enjoyment of the priviledges communicated to them by this Grant from the date thereof. That Alexander Dunlop, junior, a practitioner of Surgery in Glasgow, having opened shop as a Surgeon, and openly practised as such, the said Faculty thought it incumbent on them to examine him on his qualifications, as directed by their Grant, and to license or prohibit him from practising, as they should find him qualified or ignorant; and, for this purpose, on the 4th day of October last, the Faculty, by minutes of that date, appointed the said Alexander Dunlop, junior, to be summoned before them to be examined. And the said Alexander Dunlop, junior, was accordingly summoned before them, to give proof of his qualifications, on the 1st of November current, conform to precept from the Preses of the Faculty, and execution thereof, both dated the 27th of October last,—which citation the said Alexander Dunlop did not obey, but transmitted to the Faculty a representation, the purport of which was declining to submit to examination; and therefore, the said Faculty, on the 1st day of November current, when assembled for the purpose, by their minutes of that date, found the said Alexander Dunlop, junior, contumacious; and by a subsequent minute, of date the 12th day of the said month of November, the said Faculty, in respect the said Alexander Dunlop, junior, had declined submitting to examination, and been found contumacious, directed the pursuers to bring a complaint against him before us, for the penalties in the charter. That the penalty, in case of contumacy in the said charter, was fourty pounds Scots, one half to the judge, and the other half to be at the visitor's pleasure: —**THEREFORE, CONCLUDING** that the said Alexander Dunlop, junior, Ought and Should be Decerned and Ordained to make payment to the complainers of the one half of the said sum of fourty pounds Scots, being twenty pounds Scots, with the lawful interest thereof from the date of citation, and the other half of the said sum, being twenty pounds Scots, to the said Procurator-Fiscal; and further, concluding for expenses. To which summons the defender, Alexander Dunlop, junior, gave in answers, and sundry steps of procedure having been had thereon, the said Bailies, on the

dates hereof, having considered the libel, debate in causâ, charter and ratification libelled on, with the commission and certificate produced by the defender, they, by their decrees and sentences given forth, pronounced and subscribed by them respectively in causâ, Found, and hereby find the libel relevant; sustained, and hereby sustain the said charter and ratification, as the pursuers' title to insist in the action; repelled, and hereby repel the defences pleaded, in respect the act of Parliament upon which the defender pleads his right to practise Surgery does not apply to his case, he having served in the Navy subsequent to the time to which the privileges granted by the said act apply; and in respect it is notorious, from the records of the Town-Council, that the Corporations of Surgeons and Barbers were many years ago disjoined, and that, at any rate, that circumstance is *jus tertii* with regard to the defender, decerned, and hereby decern in terms of the libel, except as to the expense of process, which modify to fifteen shillings sterling, which also decerned, and hereby decern, and for the expense of extracting the decree to follow hereon.—Extracted upon this, and the seven preceding pages, by

(Signed) ROB. THOMSON.

No. XXI.

Extract from the MINUTES of MEETING of the FACULTY OF PHYSICIANS
and SURGEONS of Glasgow, of date 5th May 1794,

No. 75 of Pro.

Containing Decree of Court of Session against the said Alexander Dunlop, jun.

There was laid before the meeting a letter from their agent at Edinburgh, with a copy of the sentence in the process against Dunlop, of which sentence the following is a copy:—‘ Having considered the condescendence for John Jamieson, visitor, and Robert Simson, collector to the Faculty of Physicians and Surgeons in Glasgow, chargers, answers for Alexander Dunlop, suspender, replies for the chargers, writs produced, and whole process; Sustains the title of the chargers to insist in this action; and in regard that the act of Parliament referred to by the suspender, is conceived in favour of those persons only who had served in his Majesty's Army or Navy previous to the date of the act, and that, from the certificate produced and founded on by the suspender, it appears that his entry to the Navy was posterior to the date of the said act; therefore, repels the reasons of suspension; finds the letters orderly proceeded, and decerns.’

(Signed) JA. ERSKINE.

Extracted from the minute-book of the Faculty, by

(Signed) LAWRENCE HILL, Clerk.

No. XXII.

ACT of ADJOURNAL of the COURT of JUSTICIARY, 14th March
1812.*Curia Justiciaria.*

I. D. N. Registenta in Nova Sessionis domo de Edinburgh, decimo quarto die Martii Millesimo octingentesimo et duo decimo per Honorabiles viros Davidem Boyle, Armigerum Dominum Gulielmum Honyman de Armadale, Baronetum, Georgium Ferguson de Hermand, et Adamum Gillies, Armigerum Dominos Commissionarios Justiciariæ dict. S. D. N. Regis.

Curia Legitime Affirmata.

The which day, the Lord Justice-Clerk, and Lords Commissioners of Justiciary, having taken into their consideration a memorial presented to them by the Faculty of Physicians and Surgeons of Glasgow, relative to the late increase of the number of unlicensed practitioners in Medicine and Surgery within the limits specified in a Royal Charter, granted by King James the Sixth, and afterwards ratified by an Act of the Scottish Parliament passed in the year sixteen hundred and seventy-two, and being fully impressed with the great importance of protecting, as far as possible, the public, and particularly the lower orders of the community from the evils that necessarily result from ignorant and unskilful persons practising Medicine and Surgery, and vending of medicines and druggs, the Court did, and hereby do highly approve of the views and motives set forth in the said memorial ; and recommended, and hereby recommend to the Faculty of Physicians and Surgeons of Glasgow, to persevere in the exercise of the powers conferred by the said Royal Charter and Parliamentary ratification ; and, at the same time, the Court did, and hereby do enjoin and require all Sheriffs and other Magistrates, with their respective procurators-fiscal, within the limits mentioned in the foresaid Charter and Act of Parliament, to be aiding and assisting to the memorialists in the proper execution of the duty therein pointed out, and on due information to prosecute all persons illegally practising Medicine or Surgery within their respective jurisdictions in time coming ; and the said Lord Justice-Clerk and Lords Commissioners of Justiciary, ordained this act to be entered in the Books of Adjournal of the Court, and authorised the Clerk of Justiciary to grant extracts thereof to all concerned. Extracted by

(Signed) JA. ANDERSON, *Dep.*

No. XXIII.

EXCERPTS from INFORMATION for the PRESSES and VISITOR of the FACULTY of PHYSICIANS and SURGEONS of Glasgow, for themselves, and in name and behalf of the other Members of said Faculty—*Pursuers*,

AGAINST

JAMES STEEL and OTHERS.

3d October 1816.

It is believed, that, at an early period, in many of the countries of Europe, a few of the simplest and most humble operations of surgery were allowed to be performed by *barbers*. This practice probably arose from the common operations of surgery being considered, in times of false refinement, beneath the dignity of the clergy, who were the higher professors of the art, and whose servants, your Lordships know, were the tonsors or barbers. In the early formation, however, of Companies, or Corporations with monopolies, the circumstance just mentioned seems to have suggested the junction of the surgeons and barbers in one Corporate Body. But no argument can be drawn in this question against the informants from that fact. For it was almost in every instance carefully provided, that the barbers, though united in the same Incorporation, *should not be permitted to exercise any part of the business of a surgeon*. This can be very clearly shewn from a variety of proofs.

The custom in England is thus explained by Mr Tomlins. ‘ By the statute 32. H. VIII. c. 42, the barbers and surgeons of London were incorporated and made one Company; and it was directed, that there should be chosen yearly four Masters for the said Company, of which two were to be expert in surgery, and the other two in barbery, who should have power to punish and correct all defaults; and the Company and their successors were to have the oversight and correction, as well of freemen as of foreigners, for such offences as they should commit against the good order of barbery and surgery. They were exempted from bearing of arms, serving on juries, and all manner of parish offices, &c., but to pay scot and lot, and other charges as formerly; and the said Company had free liberty to take four persons condemned for felony, for anatomies, yearly. *No barber in London, or within one mile thereof, was to practise surgery, letting of blood, or any other thing relating thereto*; except drawing of teeth; nor was any person who practised surgery within those limits, to exercise the craft of a *barber*; though any man not being a barber or surgeon might retain in his house, as a servant, a barber or surgeon, who might exercise his art in his master’s house or elsewhere, &c. All persons practising surgery in London, were to have an open sign in the street where they dwell, that people might know where to resort to them when wanted. And every person offending in any of the articles contained in this statute, were to forfeit £5 a-month; ane moiety to the *voce Surgeons*. Tomkin’s Law Dict.. King, and the other to him who would sue for the same, &c. By the sta-

‘ tute, 18 Geo. II. c. 15, the Surgeons of London, and the barbers of London, are made two separate and distinct Corporations, reserving the privileges each were entitled to under statute 32 H. VIII. to each Company separately.—By the latter act, examiners are appointed to admit surgeons,’ &c.

In Edinburgh, it is stated by Mr Arnot, that the surgeons and barbers were erected into a corporation, by a seal of cause from the town council of Edinburgh, so early as 1505. In this seal of cause or charter, certain rules are prescribed for the good order of the fraternity; one of which was, that the barbers *should not take upon them to interfere with the business of the Surgeons.* King James V. ratified this charter. By a subsequent act, however, of the town council, in 1657, the surgeons and apothecaries of Edinburgh ‘ were, at their mutual desire, united into one community, which was ratified by Parliament. From the time that the arts of surgery and pharmacy were united, the corporation laid aside entirely their business as barbers. This occasioned an act of council, in 1683, recommending to this corporation to supply the town with a sufficient number of persons qualified to shave and cut hair, and who should continue dependent upon the surgeons. This was done; but, in the year 1722, the surgeons and barbers were separated from each other in all respects, except the barbers are still obliged to enter their apprentices in the register kept by the surgeons.’

But it is with the history of this body in Glasgow that your Lordships will feel most desirous to be acquainted in this cause. This accordingly can be very distinctly traced.

It will be observed, that in the gift by King James VI. to the Informants’ predecessors, there was no mention made either of barbers or their calling; but the evidence of the origin of their connexion with the Informants’ predecessors, is very fortunately still preserved on record. It appears that the barbers were *voluntarily* assumed by the surgeons, under a special *condition* or provision, that the barbers should not on this account be allowed to interfere with any of the business of a surgeon. This is proved by a minute in the informants’ records very soon after the date of King James’ gift. At a meeting of the Faculty, of this date, ‘ It is statuted and ordained, that barbers, being a *pendicle of chirurgerie*, shall pay at their admission fortie punds Scots, and ilk yier twentie shilling to the puir, and *limited not to meddle with any thing farder “belonging to chirurgerie,”* under the paine of five punds, *toties quoties*: and shall pay to the clerk of the calling for his beuking threttie shilling Scots, and to the officer twel shilling.’

Under this qualification, the informants’ predecessors, with a few barbers attached to them, continued associated in Glasgow for upwards of 50 years, in the earlier part of the 17th century; and from the Diligence raised in the name of their office-bearers, as well as from the procedure before the Supreme Court in 1635, your Lordships see that no doubt seems to have been entertained in any quarter, that the King’s gift, in 1599, made the surgeons a corporate body, having a *persona standi in judicio.*

But still the Informants’ predecessors seem to have desired to *add* to their privileges, the *elective* or municipal and other rights to be acquired from a Seal

of Cause from the Magistrates of Glasgow, electing them into an Incorporated Craft of the burgh. Accordingly, of this date, a petition was presented to the Magistrates and Council, in name of the Chirurgeons and Barbers of Glasgow, craving from the town a Letter of Deaconry under the particular rules and regulations set forth in their petition. It does not appear material to lay these at length before your Lordships, because the Faculty, in a minute prior to their application, specially *reserved* their rights under the prior Gift of King James. The minute was to this effect :—‘ Convenit in the Craftes

1656.

4. August 1656.

‘ Hospital, the present visitoures, with Mr James Hamiltoun, Daniel Browne, John Low, Mark Greg, William Clydisdaill, Robert Harris, Adam Greg and Andrew Bogle, who all in one voice did condiscend and agrie that ane seall of caus, or letter of deaconrie, be purchest from the toun councell in favours of the Facultie ; *but prejudice of the old Gift grantit to them by the deceast K. James* ; and this to be drawnen allenarlie in favour of the chirurgeons and barbers.’

Though it be not necessary to quote here the whole rules and regulations of the surgeons and barbers as a *Burgh-incorporation*, yet it may be proper to lay the following before your Lordships, to shew that the most careful provision was made to prevent the barbers from interfering with the business of the surgeons. The 9th article, therefore, of the letter of deaconry was to this effect :—‘ 9thly, That no brother within the said calling, presume to meddle with any more points of chirurgery than these *they are found qualified of at their admission* and conform as they are *booked*, under the paines of the soumes above written respective, as an new *upsett*.’

Farther, although the surgeons and barbers were incorporated into one body as a Burgh-incorporation, they still recognised within themselves a distinction of rights and property, belonging peculiarly to the different professions ; or rather, the barbers admitted, that the funds and stock vested nominally in the united bodies, fell to suffer a division ; and that the part of it raised by the surgeons, in virtue of their grant from King James VI., belonged exclusively to the *surgeons*, without any right of participation on the part of the barbers. This is clearly instructed by an *Agreement* between the chirurgeons and the barbers in 1708, engrossed in the Appendix. The narrative of this document is very material. It bears to be entered into between Mr Thomas Hamilton, and twelve other persons, designing themselves exclusively ‘ Chirurgeons in Glasgow,’ on the *one* part ;—and Charles Anderson, and twenty other persons, styled separately ‘ Barbers’ in Glasgow, on the other part ; and the narrative proceeds thus :—‘ FORASMUCH as the said chirurgeons and barbers within the said burgh of Glasgow, and their successors, chyrurgeons and barbers there, are united and erected in ane corporation and trade, conform to ane Letter of Deaconrie granted to them by the magistrates and town council of the burgh, dated the 16th day of August 1656 years, and conform to ane act or decretal arbitral of the magistrates and town council of the said burgh, dated the 16th September 1707, be virtue whereof there has several emoluments, profits, and casualties accressed and fallen to the said corporation, by payment of freedom fynes, by entrant quarter accounts of freemen,

‘ within the said burgh of Glasgow ; Lykeas the *chyrurgeons* have, by virtue
 ‘ of a Gift, long before the said letter of deaconrie, granted in favours of them,
 ‘ and their predecessors, for bringing practisers of chirurgerie within the shires
 ‘ of Lanark
 ‘ and admitting and licensing them according to their knowledge, and for fyn-
 ‘ ing of delinquents, and who practise within the saids bounds, *without being*
 ‘ *found qualified, and having license as said is* ; also received in several
 ‘ summs of money, as fynes imposed upon delinquents, admission of entrant
 ‘ and quarter accompts—both which stocks, als well that last above mentioned
 ‘ accressing from the sd. Gift, *belonging properly and peculiarly to the sds.*
 ‘ *chyrurgeons, and in which the barbers pretend no interest*, as that first
 ‘ above mentioned, accressing from the sd. letter of deaconrie, which belong-
 ‘ eth to the chyrurgeons and barbers *in cumulo*, have been confounded, lent,
 ‘ applied, and oyerways disposed on without distinction, which, without an
 ‘ amicable division, may occasion differences and pleas.’

The Agreement then makes the following arrangement of the rights of the parties respectively, in all time coming :—‘ FOR PREVENTING whereof, and
 ‘ all debates that may arise thereanent, now and in all time coming, IT IS
 ‘ hereby expresslie agreed to, betwixt the saids parties, as follows, viz.—In
 ‘ the FIRST place, That the books, skeletons, and all rarities now in the hall,
 ‘ belonging to the said corporation, or that at any time thereafter shall ap-
 ‘ pertain to them, shall now and in all time coming, *pertain and belong to*
 ‘ *the said chyrurgeons and their successors only*, and to which the barbers
 ‘ and their successors *are to pretend no right, now or at any time hereafter*.
 ‘ And in the NEXT place, That the hall in Tronegate of Glasgow, belonging
 ‘ to the saids trade, with the pictures, tables, table-cloaths, chayres, and all
 ‘ other utensils therein, appointed for their common meetings, shall in all
 ‘ time coming remain for ever common, to the effect foresaid, to both the
 ‘ FACULTIE of Chyrurgeons, and the CORPORATION and Trades of Chyrur-
 ‘ geons and Barbers. And THIRDLY, That their haill other stock, both heri-
 ‘ table and moveable, now pertaining and belonging to them, shall be divided,
 ‘ belong and appertaine as follows, viz. *three fifth* parts thereof to the FACULTIE
 ‘ of Chyrurgeons *only*, now and in all time coming, to be managed and dis-
 ‘ posed of *by them only, secluding the barbers and their successors from any*
 ‘ *benefit thereof, or any management yrintill*. And the other two fifth parts
 ‘ *yrof to the said Trade of Chyrurgeons and Barbers in cumulo*, now and in
 ‘ all time coming, to be managed and disposed of by the sd. joynt trade of
 ‘ chyrurgeons and barbers, and the deacon or visitor and masters thereof, now
 ‘ and in all time coming.’

The Agreement concludes with the following provisions, respecting the admission of Surgeons :—‘ AND it is hereby further agreed between the said
 ‘ parties, that it shall always belong to, and be the part of the deacon or
 ‘ visitor of the Chyrurgeons and barbers within sd. burgh of Glasgow, *and*
 ‘ *his chyrurgeon masters*, conform to the foresd. letter of deaconry, to ex-
 ‘ amine all chyrurgeons residing or practising *within the sd. burgh*, appoint
 ‘ them their essay and essay-masters, and to enter them *when found qua-*

‘ *lified.* AND that the visitor or Facultie of chyrurgeons for the *country*,
 ‘ shall admit and enter chyrurgeons practising in the *country*, as they find
 ‘ cause ; but that the sd. visitor for the country be only an ordinar member
 ‘ for the corporation of chyrurgeons and barbers in their meetings : CON-
 ‘ SENTING to the registration hereof,’ &c. &c.

Although the above Agreement seems abundantly explicit, yet, in the years immediately subsequent to it, there seem to have been constant disputes betwixt the surgeons and barbers. Thus, in 1712, the Surgeons proposed to admit into the Incorporation, by their own votes exclusively, one William Stirling, who had served no apprenticeship, but had proposed to pay a fine for entrance of 1000 marks, and even part of this the surgeons, at their own hand, made offer afterwards to abate. The barbers complained of this, and the matter came successively before the Trades-house and Town-council, when the barbers were found in the right ; but it seems quite immaterial to trouble your Lordships with any quotations from the records about this dispute.

Again, in 1719, another dispute arose betwixt the surgeons and barbers. The barbers had claimed ‘ that they, and their sons, sons-in-law, and prentices, ought all equally to be admitted to the practice of surgerie and phar-
 ‘ macie as well as barbariseing, *they being first found qualified by the deacon and surgeon-masters for such practice*, and that without any distinc-
 ‘ tion betwixt the sons, sons-in-law, and prentices of surgeons and barbers,
 ‘ for payment of the like freedom fines, and oyr. deus, as the surgeons, their
 ‘ sons, sons-in-law, and prentices do pay.’

The Trades-house had sustained this claim, but the surgeons protested against the sentence as prejudicial to them, and appealed to the Magistrates and Council. Upon which the Magistrates remitted the matter to a Committee, who reported as follows :—

The Committee ‘ are of opinion, that seeing, by the letter of deaconrie,
 ‘ the surgeons and barbers are incorporate into one body and incorporation,
 ‘ without distinction, upon the joint application of surgeons and barbers, and
 ‘ that there is no difference thereby made anent the soume to be payed anent
 ‘ the admission of a member to any of the said professions ; and also that it
 ‘ is provided, that no person admitted should presume to meddle with any
 ‘ more poynts than *these they were admitted to*, and as they should be *book-ed* ; and that all the acts made either by the surgeons or barbers, for ex-
 ‘ cluding persons from these employments, are only against unfreemen ; and
 ‘ that, upon the repeated submissions by both parties to the Magistrates and
 ‘ Town-council, they, the said Magistrates and Town-council, have always
 ‘ approved of the letter of deaconrie erecting both parties into one incorpora-
 ‘ tion ; and seeing that every surgeon and barber is a freeman of the incorpo-
 ‘ ration, and that thereby their sons, sons-in-law, and prentices, have an equal
 ‘ privilege to be admitted members of the incorporation, according to what
 ‘ upon tryall they shall be found qualified to practise ; and that the surgeons
 ‘ cannot therefore be prejudiced, as if strangers craving to be admitted to
 ‘ that practice could practise surgerie, *in respect no brother can practise any*
 ‘ *farder than the employment unto which he is admitted*, unless he pay in.

' a new upsett, and be *admitted* of new: Therefore, the reporters are of opinion, that the sentence of the convener and house is consonant and agreeable to the letter of deaconrie, and that there is no prejudice thereby done to either party; and that the sentence ought to be *approven.*'

The report closed with the following observation, which deserves to be particularly marked. The committee declared their opinion, ' That most of the differences that have hitherto happened between the said parties, is from an undue extension of the rights and privileges conveyed to the surgeons by the Gift of King James the Sixth, in the year 1599, which both parties endeavoured to *confound* with the letter of deaconrie; whereas the barbers can justly pretend to no privileges by that *Gift.* And the powers and privileges committed thereby to the surgeons and physicians, gives them no furder powers as to practitioners within the city of Glasgow, than those who practise in the haill neighbouring shyres, and can never be made use of in prejudice of the letter of deaconrie.' The magistrates approved and adopted *simpliciter* this report.

1722. Soon after this, all future opportunity of dispute between these bodies was taken away by the *separation* of the Surgeons from the Barbers. This took place upon a Demission and Renunciation given in by the Surgeons, of the letter of Deaconry in their favour, whereby the Surgeons prayed the magistrates to accept thereof, and to divide the common stock, which was thereby submitted to their decision. At the same time, the Barbers, by a separate petition, given in in their own name, expressly *consented* to this arrangement, and craved 'that, upon accepting of the demission and renunciation of the surgeons, the council would be pleased to grant a letter of deconry to the barbers by themselves.'

Matters accordingly were so arranged. The town-council divided betwixt the bodies equally the share of the old stock, which had been declared, by the prior agreement of 1708, to be joint property. A *new* letter of deaconry in favour of the barbers was granted. And from that period till the present, the fraternity of barbers have laboured in the business peculiar to their calling, without once pretending that they had the smallest right, either to practise themselves, or to interfere with the informants in their exercise of the arts of surgery.

No. XXIV.

NOTES of the OPINIONS of the JUDGES on advising the Case of the
FACULTY of PHYSICIANS and SURGEONS, *against* Drs STEEL and OTHERS,
and GRAY. 16th May, 1817.

LORD JUSTICE-CLERK.

I wish to remark, in the first place, that I consider the whole case as completely open to the Court. It is of very great importance (if there be law for

it) that there should be some regulation on this subject, considering the great mischief which arises from improper practice. I was present at a Circuit in Glasgow, where, on a charge brought against a woman for poisoning her own child, my brother, Lord Hermand, and I, saw one of the most complete instances of the abuse of the art that ever was exhibited in any court,—such a display of ignorance and inhumanity as called down upon the party the just reprobation of the Court. Shortly after this the attention of the Court was called to the subject by the Faculty, who complained of the practice, and prayed for advice how to proceed. The Court recommended them to avail themselves of what powers they had, and enjoined all Magistrates to be aiding them in the exercise of them. This was all the length we could go, and we are now to decide upon the *law* of the case. The first question that occurs is, whether there is a sufficient title to pursue? When I look at the terms of the grant,—to the preamble,—to the language in which it is framed,—I have no doubt whatever that this was not merely a gift conferred on the two individuals mentioned in it. The one is professor of medicine, and they were entitled to associate brethren,—to make rules and regulations, and to give directions for the practice of the art in time to come within the district specified. They did associate brethren, and it would appear that they formed an union with the Society of Barbers, and obtained a seal of cause, and they became a part of the united Incorporations of Glasgow. There is also a ratification in favour of the surgeons of Glasgow; and there is afterwards an agreement of separation between the surgeons and barbers, and here they are termed ‘Faculty’; but it does not appear when or how this title came first to be applied. Here it applies to the Surgeons alone. In this agreement we see a positive title to exercise their powers, as in the terms of the grant. The separation was as to the choosing of deacons, and did not infringe in the least upon the privilege of the surgeons. In fact, the practice, from the gift downwards, is a strong proof of the title; and we see, in every step down to this present day, people put down by the Faculty who unlawfully practised. This implies an undoubted consciousness by them of the justice of their powers. The recognition also by the statute 55th Geo. III. and the title thus given by the Legislature, confirms them. There is not therefore, in my mind, a doubt of the sufficiency of the title.

As to the action itself, I entertain the greatest doubts of the power of the Faculty to deprive those who have a diploma from a University of the privilege of practising. Three of these defenders have diplomas from the University of Glasgow, where there is a school of medicine, which very soon will rival that of Edinburgh; and I think there cannot be a doubt that they are qualified. I therefore lay these cases out of sight, and I think they must be assailed. The two others have a degree from other Universities—the one from St Andrew’s, and the other from Aberdeen, where there is a professor of medicine. It is true, that there may be none taught, but the lectures are regularly advertised; and if there be no students, it is not the professor’s fault. You must go back to the terms of the gift, and find that there are famous

Universities, where medicine is, or may be taught. It would be to decide against the privileges of these two Universities, if we were to prohibit these gentlemen from practising, and therefore they must also be assailed.

I come now to the point as to the practising surgery. I know well, that in very many parts of the kingdom, the distinction between physicians and surgeons is by no means defined. Nothing is more common than for a person to exercise both professions ; and to practise the one is not considered an encroachment on the other. The distinction is much too fine. That accurate chemist, Dr Thomson, says, that physic and surgery are the two departments of medicine. It is impossible to draw a distinction. I am, therefore, disposed to assail these five defenders entirely.

The last case is that of Gray. He was a common soldier in a fencible regiment, and considers himself entitled to set up any trade by virtue of the Act of Parliament. He sells drugs, and admits that he gives advice when asked, and that he practises venesection. Now, I am clearly of opinion, that, as far as he has attempted to practise either medicine or surgery, he had no authority whatever for so doing, and the Faculty had a right to prevent him, and we ought to prohibit and discharge him from practising. The other part of his case may be different ; and it may be a question whether he is entitled, by virtue of the Act, to sell medicines in a shop, without conforming himself to the laws of the corporation. Your Lordships know, that in cases of sequestration, a druggist has frequently been held as coming within the act, and been considered as a trade. There is certainly, however, skill required in the exercise of this trade ; but it appears to me that the Faculty are merely authorised to sight or examine the drugs, as mentioned in the Gift, where I observe *rat powder* is specially inserted. To this extent, then, I hold that there is nothing in Gray's privileges to exempt him from this examination,—but the Faculty cannot prevent him from selling drugs so examined.

LORD GLENLEE

Agrees with Justice Clerk as to the sufficiency of title. The right of the Faculty was not meant for their own benefit, as a Corporation, but for the good of the public ;—the extensive circle pointed out in the Gift shews this. Those who held diplomas have, I think, a right to practise—and I therefore agree with the Lord Justice-Clerk as to these five gentlemen. It is a difficult question, whether a person, who has a license to practise medicine, has a right to take up the trade of a Surgeon. I think it reasonable, that even a Physician should be examined as to Surgery, before he be allowed to practise. I am inclined to hesitate, therefore, whether he who has a diploma should not be examined in Surgery. I think he should, and therefore I am inclined to let the Lord Ordinary's Interlocutor stand. As to Gray, if he has now qualified himself, he will be admitted ; but I incline to think the interlocutor right here too. I think the act only applies to corporation privileges. There is a very wide difference between a seller of drugs and an apothecary. I remember

when you could purchase an ounce of glauber salts at a painter's shop. No part of this profession requires greater care ;—and will you allow a man like this to compound medicines ? The utmost mischief might arise from it. I am ordered, for instance, to take two or three grains of corrosive sublimate,—I send to him, and he gives me an ounce,—what is to become of me then ? I am, therefore, clear, that he may *sell* the ingredients, but as to mixing them, that is a different thing.

LORD ROBERTSON.

I think it unnecessary for me to add a single word as to the title, on which I agree in the opinion expressed by your Lordships. We must, therefore, inquire into the right conferred by the diplomas. The diploma granted seems to be quite general, and to confer powers of practising every where, and every branch of the arts. It is, ‘ *omnes tam theorie medicinæ quam praxeos actus ubique terrarum, exercendi.* ’ It does not appear, therefore, that these gentlemen can be subjected to examination : their diploma must be held as their title to practise. As to Gray, we know that a drysalter, as it is called, is a totally different trade from an apothecary or druggist. The former may have right under the act ; but it does not appear to me, that Gray can act either as an apothecary or druggist under the statute.

LORD BANNATYNE.

The original character of the Incorporation was by no means hurt by their division from the barbers ; and I am therefore clear, that the original power and right exists in the body. The question is, how far this article is well founded. I cannot distinguish between one University and another, or whether the one takes the proper method of qualifying, and the other does not. The power is committed to these Universities, and we cannot inquire how it is exercised. As to the power to practise surgery, I agree with Lord Glenlee, that *quoad* surgery within the district specified by the grant, they must submit to examination on surgery. A person may be qualified to act as a physician, but he may not be skilled to practise as a surgeon.

As to Gray—he has no certificate from the Faculty, nor a University. The only question is, his right under the Act of Parliament. Keeping a shop is quite distinct from preparing medicines, and in the last particular, I think he must submit to examination how far he is qualified.

LORD CRAIGIE.

It is unnecessary to say much, as your Lordships have entered so fully into the question. In my interlocutor as to the title, I went on the words of the Gift, which admitted of no distinction. For Gray, I think he may sell drugs as a shop-keeper, but nothing more.

LORD JUSTICE-CLERK.

Though I differ from your Lordships, I still adhere to my opinion on this point. I confined myself to the words of the grant. The ‘sighting’ there mentioned, is to see that the drugs are properly compounded. The difficulty of the power conferred by the diploma I cannot get over. I think it is a point of honour with these gentlemen to maintain that they could not be so licensed unless they had been found qualified.

Adhere to the Lord Ordinary’s interlocutor, and find and decern in terms thereof.

*NOTES of JUDGES’ OPINIONS, at Advising on 26th
February 1819.*

LORD GLENLEE,

In a few words, stated his opinion to be the same as when the case was last before the Court.

LORD ROBERTSON.

On the former occasion he had considerable doubts. These Universities had, before the date of the pursuers’ grant, been in the practice of granting diplomas under the highest authority. We must consider the privileges conferred by these *brevia*, and whether they can be affected by the terms of the Gift of King James. We must inquire into the previous practice. By the foundation charter of Aberdeen, and, he believed, of some other Universities, power is granted to confer as great privileges as the Universities of Paris and Padua. I therefore cannot help doubting, whether such Universities can be infringed upon by the grant. I could have wished some farther information on this subject; but as the case now stands, I must presume that a person who has a diploma, can practise all the branches.

LORD BANNATYNE

Merely said he acquiesced in Lord Glenlee’s opinion, which he thought was well founded.

LORD JUSTICE-CLERK.

Were the question here, how far the Universities can be encroached upon by the Royal Grant to the pursuers, there might be much more difficulty. But the question is, Whether or not this Royal Gift, ratified and approved

of by Parliament, is to be held a part of the subsisting institution, and acted upon at this day. Now, we have laid down the law, sustaining the title of these M. D.'s to practise, in the face of the Faculty ; but we have, at the sametime, sustained the statutes in favour of the Faculty, and it is in consequence of our sustaining them that we have entertained these questions at all. The question is, therefore, Whether, in consequence of this grant, there is not existing an actual monopoly (no matter whether odious or not) in favour of the Faculty, to which we are bound to give effect ? It is clear, that there are in the grant three distinct classes of persons pointed out as exercising branches of the healing art. 1. Surgeons. 2. Professors of medicine. 3. Compounders of drugs, in which 'ratoun poison' is specified. These three classes are all recognised, and the Faculty are entitled to take care that no person exercises the art of surgery without undergoing an examination. We were formerly clear, that the objections of the University, not being 'famous,' was ill founded, and we gave full effect to the diplomas of these four defenders. But, as the healing art was exercised by those having such diplomas before the grant, can we shut the door against their practising *surgery*? My opinion is, that if we give effect to the grant in one respect, we must give it in all. It is said that it would be a degradation for these M. D.'s to submit to an examination on surgery. Why, it may be said to be a degradation for an M. D. *to practice surgery at all*; but it is no degradation for one who has made up his mind to do so, to shew himself to have the requisite skill. You will observe that it is only within a particular district that this monopoly, (if it is one, but with this we have nothing to do), has effect, and so existing, we must give it effect, and these gentlemen must submit to examination. It is presumed the examinators are skilful; but if not, it is so much the better for them.

With respect to what Mr Cranstoun said as to the memorial, I think he was wrong. The memorial was a fair statement on the part of the University, of their having power to grant diplomas in surgery,—but that they had not done so until they got an endowment of a professorship, and that then they were determined to use their privileges; and they were attempting to get rid of an exclusion which would cut up their institution by the roots. This was the object of the memorial, as I know, having been Rector at the time,—and it had the effect which was intended.—Adhere.

In Roderick Gray's case, the Court remitted to the Lord Ordinary, to bring the case to a determination.

No. XXV.

DECREE of DECLARATOR, &c., The FACULTY of PHYSICIANS and No. 91 of Process,
SURGEONS *against* Dr JAMES STEEL, &c., and RODERICK GRAY, 26th
February 1819.

At Edinburgh, the 14th day of November 1815, and 26th day of February

1819 years.—In the summons and action raised and pursued before the Lords of Council and Session, at the instance of Doctor John Balmanno, President of the Faculty of Physicians and Surgeons of Glasgow, and Moses Gardner, Esq. their visitor, for themselves, and in name and behalf of the remanent members of the said Faculty against Roderick Gray, James Steel, James Watt, Peter M'Dougall, John Cross, and Andrew Reid, and others, all residing in or near Glasgow, and practising or attempting to practise Medicine, Surgery, and Pharmacy, within the city of Glasgow, or its neighbourhood, libelling, That King James the Sixth, by his Letter of Gift and Commission, under the Privy Seal of the kingdom of Scotland, dated the penult day of November 1599 years, setting forth ‘The grit abuses,’ &c.—(Here the Gift is narrated.)—as the said Commission in itself more fully bears. That the Provost and Baillies of Glasgow, fortified and promised to maintain the foresaid grant and commission, by their act, dated the 9th day of February 1600 years; that conform to the said gift and powers committed to them thereby, the said visitors and their successors, made several rules and statutes, and particularly by their act, dated the 3d of January 1602 years, the deceased Mr Peter Low and Mr Robert Hamilton, with several of the brethren of the said trade, having convened with the then Magistrates of Glasgow, it was agreed by the said Peter Low and Robert Hamilton, notwithstanding their nomination in the said Gift, they were content, and consented, that at Michaelmas each year, visitors should be elected amongst the brethren, and that the visitors should remain for a year thereafter, and so forth yearly in all time coming; and also, were content that the persons therein-mentioned brethren of the craft, then admitted to them, should have power and liberty to use their craft, and exercise the duties thereof in time coming. That, thereafter, the brethren elected their visitors, clerk, and officer of court, who made faith, *de fideli*, and appointed courts to be holden in common form, as the said act more fully bears. That, thereafter, upon the 17th day of the same month and year 1602, the said Mr Robert Hamilton, then visitor, and the brethren of the said art having met, they elected four of their number to be quarter-masters, until Michaelmas then next; and thereafter, with one consent, statuted and ordained, that if any thereof convene with the visitor, for setting down of any good order, the same should be sufficient. That conform to the foresaid Gift, the visitors, Professors of Surgery and Pharmacy, intended and prosecuted several processes, and obtained decree against unfreemen, and particularly, Mr James Hamilton, visitor in the said art and calling, did, upon the last day of July 1635 years, obtain decree before the Lords of Council and Session, decerning and ordaining letters of horning to be direct, on a simple charge of three days, charging all and sundry persons whomsoever, professing and using the said art within the bounds foresaid, in general, or by their names, in special, as they shall be required, to desert and cease from all using or usurping of the said arts within the said bounds, except they be examined by him and his brethren of art, and their successors, and from using of any medicine, selling of druggs, under the penalty expressed in the said Letters of Gift, and that they do

Should be June.

nothing contrary of it under the penalties therein-mentioned, as the said decree more fully bears. That the visitor and remanent bretheren of the said art obtained the foresaid Gift ratified by King Charles the Second, with the advice of the estates of Parliament, upon the 11th day of September 1672, in the haill heads, articles, clauses, and circumstances of the same, as the said ratification bears. That, by virtue of the foresaid Gift granted to them by King James Sixth, and the various ratifications thereof, before specified, the pursuers' predecessors, in the exercise of their powers thereby vested in them, did, on the 25th of March 1779, pass an act for preventing the prejudice that might arise through the promiscuous admission of strangers to practise Surgery and Pharmacy within the city of Glasgow, statutes and ordains, ‘ That no person or persons whomsoever, shall, at any time coming, be admitted to practise of any of the said arts of Surgery and Pharmacy within the city of Glasgow, but as either have served their apprenticeship with a freeman or member of the Faculty for the time, for the space of five years, conform to indentures in common form, and have, conform thereto, received from his master, meat, drink, and bedding within his house, the saids space, or otherwise be a freeman’s son or married to a freeman’s daughter, with the qualifications always suitable and necessary for either of the saids arts, with that provision always, that it should be in the power of the Magistrates of Glasgow for the time, (in case of deficiency of qualified persons surgeons in the place), to call one or more well experienced in the saids arts, to reside in the city, the entrants in that case being always subject to the trial of the Faculty, for their qualifications, and paying their freedom fines, for the maintainance of the poor, according to their acts and statutes,’ as the said act, of the date foresaid, subscribed by the haill members of the Faculty, more fully bears. That, thereafter, the pursuers’ predecessors having brought an action of declarator before the Supreme Court, against the Magistrates of Glasgow, for the purpose of having their right and privileges found and declared, the Lords of Council and Session, on the 8th day of July 1699, found and declared, ‘ That the visitors of the surgeons at the time of the said Gift, and their successors ever since, and all time coming, had and have right to make rules and statutes anent the dispensing of the said art, and to order the manner of the election of their successors, and also to make rules anent the admission of gift, and qualified persons for the practice of the said art and trade, and to debar all others from the exercise thereof, who are not duly admitted, conform to the said rules; and particularly, to debar all such as have not served their apprenticeships in the town of Glasgow, or have not married the daughter of a freeman of the said incorporation, and also tried and found qualified, and to fine all unfreemen exercising the same in the sum of forty pounds Scots, *toties quoties*, conform to the said Gift.’ And also ‘ Found and declared, that the Magistrates and Council of Glasgow have no right nor power to warrant or authorise any person to exercise surgery or pharmacy within the city of Glasgow, except such as are duly approven of by the visitors, conform to the rules and statutes made anent the admission of free persons for that ef-

Should be 1679.

‘ fect ; which rules did not require due trial of the qualifications of the persons to be admitted thereto.’ And further, the said Lords found and declared, ‘ That any warrant and allowance granted by the late Magistrates in favour of any person whomsoever, who was not duly admitted nor tried, to set up shops and practise within the said burgh, is void and null ; and that the saids Magistrates and Council could not give to the said persons legal warrant or power to set up a shop, or exercise surgery or pharmacy, except by consent of the visitors, and conform to the rules appointed by them ; declaring always, with this express quality and condition, that the said persons, and their successors shall, from time to time, provide the said burgh of Glasgow, and liberties thereof, with a competent and sufficient number of qualified and sufficient persons for the exercise and practice of the foresaid art and trade ; and that they enact nothing prejudicial to the weil of the said burgh.’ That in pursuance of their privileges thus ascertained, which were vested in the pursuers predecessors, for the public good, the said predecessors have, from time to time, been regularly in the practice of asserting their right to examine and license practitioners of surgery and pharmacy within the town of Glasgow, and the surrounding district, described in the Gift and Commission of King James Sixth, and to put a stop to the practice of unlicensed intruders. That the privileges of the pursuers and their predecessors, have, in various instances, been recognised, confirmed, and enforced by the Supreme Court, and by inferior Judges, between the date of the said decree of declarator 1669, and the present date. That the fees exacted by the pursuers for licenses are most reasonable and moderate in themselves, and below what would be considered a fair compensation for such trouble, or the dues proper to support the establishment under which the examinators and visitors of the Faculty are appointed, and discharge this part of their public duty ;—the fees of a diploma to practise within Glasgow being at present only twenty guineas ;—for practise in the country five guineas. That notwithstanding this, a variety of persons have of late intruded themselves into the practice of medicine, surgery, pharmacy, and selling drugs within the city of Glasgow, and the territory described in the Gift and Commission of King James Sixth, without applying for, obtaining licenses from the pursuers ; in consequence of which, the lives and health of his Majesty’s lieges have, in many instances, been highly injured and endangered, and the profession of medicine degraded, and brought into contempt. That in particular, the pursuers have frequently desired and required the persons after named, viz.—the saids Roderick Gray, James Steel, James Watt, Peter M'Dougall, John Cross, and Andrew Reid, and the other defenders therein named, all presently residing in or near Glasgow, and practising, or attempting to practise medicine, surgery, and pharmacy within the city of Glasgow, or its neighbourhood, and to sell drugs therein, either to submit themselves to the necessary examination before the pursuers, so as if found qualified, they may obtain the requisite license or diploma, on paying the prescribed fees, or to desist from the practices before specified, within the city of Glasgow, and territory described in the Letter and Gift of King James Sixth ; nevertheless, the persons before-mentioned, defenders, refuse or delay so to do, and con-

CLUDING for DECREET to the effect therein-mentioned. To WHICH ACTION the following DEFENCES were given in for the said Roderick Gray, at Cowcaddens near Glasgow, BEARING, That in the summons it is stated, that the defender has practised the arts of medicine, surgery, and pharmacy, and sold drugs without the previous sanction of the examination license and diploma therein described ; and the conclusion of the summons is, that he shall be interdicted from farther prosecution of these practises, subject to heavy damages, and the expense of the said process. The defender, after serving his country as a soldier, was obliged, by the reduction of the regiment to which he belonged, so seek some other means of livelihood. Having acquired some acquaintance with the properties of herbs, he betook himself to the cultivation of them, and discovered the efficacy of some preparations of them in certain disorders. He sold them to his poor neighbours, and the remedy being constantly attended with success, he has been of late applied to by several gentlemen of fortune and respectability, who have purchased his herbs, and granted him the most flattering certificates of the advantage they have derived from them. He has received no license to prosecute this simple but useful trade; and to shew that he requires no license, he produced the following documents :—*First*, A copy of the act 42 George the Third, chapter 69, by which it is provided, *inter alia*, that all persons who have served in his Majesty's Army or Navy, shall be entitled to practise such trades as they are apt and able for, in any part of his Majesty's dominions ; and enacted, that in any suit by which they are disturbed in the practise of their trades, they shall be acquitted, and entitled to double costs ; and all Judges are required to conform their decrees to this act. *Secondly*, To show that he is entitled to the benefit of this act, the defender produces his Colonel's discharge from the regiment in which he served, attesting his faithful and honest service of his Majesty. The defender is, therefore, entitled to be assoilzied from the said process, and to decree for double the amount of the expenses incurred by him. Under protestation to add and eik, as the said defences bear. As ALSO, the following DEFENCES were given in for the said James Steel, M. D., James Watt, M. D., Peter M'Dougal, M. D., John Cross, M. D., and Andrew Reid, M. D., defenders, BEARING, That the defenders have practised, for several years, the art of medicine, in the city and neighbourhood of Glasgow, and it was with no small degree of surprise that they received their citation to the said action. They have all regularly studied medicine at the Scottish Universities ; and in testimony of the success with which they prosecuted their studies, they have been each honored with the degree of Doctor of Medicine. The defenders have the satisfaction of thinking, that their services have given very general satisfaction, and they do not think they would add to their respectability by connecting themselves with the pursuers. It is, therefore, most calumnious and unjust to insinuate, as is done in the summons, that the defenders are not qualified to discharge the duties they profess. In defence against the said action, it is humbly maintained, that the pursuers have no sufficient title to insist in it ; and besides, the pretended charter on which they found, precludes them from interfering with the defenders, or with any person who has a regular ‘ testi-

‘ monial of an famous University where Medicine is taught.’ Independent of this defence, it is well worthy of consideration, whether such demands as those made by the pursuers, are not merely incompatible with the natural rights and liberties of the inhabitants of this country, but whether they are not superior to the exclusive privileges which can be claimed by any Corporation whatever.— Under protestation to add and eik, as the said defences bear. In the course of the said action, a decree of declarator, &c., was extracted at the instance of the pursuers, against the said James Rattray, or Rattery, James Cochrane, David Crawford, James Turnbull, James Hamilton, Alexander Chalmers, William Herron, Joseph Edwards, Lorimer Corbet, and F. Mohan, all presently residing in or near Glasgow, and designing themselves surgeons, apothecaries, or druggists, practising there, or in the neighbourhood. After some other steps of procedure in said action, the Lord Craigie, Ordinary thereto, upon the 14th day of November 1815, having considered the memorials, and additional memorials for the parties, writings produced, and whole proceedings ; HE FOUND, That the titles produced by the pursuers, as explained and confirmed by the acts of possession condescended on by them, afford a sufficient title to carry on such an action as the present. FOUND, that in virtue of the diplomas, and other testimonials produced by the defenders, James Steel, James Watt, Peter M'Dougall, John Cross, and Andrew Reid, these parties are authorised, without challenge, to practise medicine within the district specified in the Royal grants founded on by the pursuers. FOUND, that no persons can, within the said district, practise surgery, or carry on the business of an apothecary or druggist, without such an examination as is there prescribed. FOUND, that the defender, Roderick Gray, has been properly prohibited from carrying on the profession of medicine or surgery, or that of an apothecary, as not being sufficiently qualified ; and DECERNED and DECLARED accordingly. And the Lords of the Second Division of the Court, by their interlocutor, dated the 16th, and signed upon the 20th day of May 1817 years, on report of Lord Craigie, and having advised the mutual informations for the parties, the interlocutor of the 14th of November 1815, with the representations against the same, and different answers, writs produced, and whole proceedings, and heard the counsel for the parties, *viva voce*, REFUSED the three different representations, and adhered to the said interlocutor. And their Lordships, upon the 26th day of February 1819, on advising a reclaiming petition for the said James Steel, James Watt, John Cross, and Andrew Reid, against the foregoing interlocutor, REFUSED the petition, and ADHERED to the interlocutor complained of. FOUND no expenses due, and DECERNED. Therefore, SITTING IN JUDGMENT, the Lords of Council and Session aforesaid, upon the date hereof, they FOUND, and hereby FIND, that the titles produced by the pursuers, as explained and confirmed by the acts of possession condescended on by them, afford a sufficient title to carry on such an action as the present. FOUND, and hereby FIND, That in virtue of the diplomas, and other testimonials produced by the defenders, James Steel, James Watt, Peter M'Dougall, John Cross, and Andrew Reid, these parties are authorised without challenge, to practise medicine within the district specified in the Royal grant founded on

by the pursuers. FOUND, and hereby FIND, That no persons can, within the said district, practise surgery, or carry on the business of an apothecary or druggist, without such an examination as is there prescribed. FOUND, and hereby FIND, That the defender, Roderick Gray, has been properly prohibited from carrying on the profession of medicine or surgery, or that of an apothecary, as not being sufficiently qualified, and DECERNED and DECLARED, and hereby DECERN and DECLARE accordingly ; and FOUND, and hereby FIND no expenses due, and ORDAIN all execution necessary to pass and be directed hereon in form as effeirs. Extracted upon this and the thirty preceding pages, by

(Signed) Ro. WILSON.

No. XXVI.

DECLARATION of JOHN M'KINNON, 12th May 1826.

No. 67 of Process.

At and within the Faculty Hall, this 12th day of May 1826 years, and in presence of Mr James M'Nish, visitor of the said Faculty, and the other Examinators thereof,

Compeared Mr JOHN M'KINNON, residing in No. 65 Trongate, Glasgow, in terms of a summons by the officer of Faculty, who being examined and interrogated, declared and acknowledged, that he was before the Faculty for examination in the month of November last, for a license or diploma as a surgeon, but he was not able to answer the questions put to him, and undergo the trials, and was refused. Declares, that he had been upon two former occasions before this Faculty for examination, with a view to obtaining a licence ; but upon both of these occasions also he had been found unqualified. Declares, that since he was rejected by this Faculty in November last, he attended the classes in the University of Glasgow for Anatomy, Materia Medica, Theory and Practice of Physic, and being approved, he obtained from the University a diploma, which he is willing to produce, bearing that he, the declarant, had obtained the degree or honour of C.M. or Chyrurgiae Magister : That the examination for that diploma was upon the 2d of March, and the diploma or degree is dated the 10th of April last : That within ten days after the said examination, the declarant went to Ayr, and practised there for about a week as a surgeon ; when he again returned to Glasgow, and took a house and professed, and offered to practise surgery, and put his name with the word ' Surgeon ' on a brass plate on his door ; and intends to reside and practise in Glasgow. Declares, also, that he practised surgery both last summer and the summer before in the county of Ayr : That the practice during last summer was subsequent to his second examination and rejection by this Faculty : That the declarant considers himself qualified to practise Surgery and Pharmacy, and is willing to undergo any examination ; and promised to appear before the examinators of

this Faculty, at half past two o'clock this day. In witness whereof I have subscribed this declaration, written on this and the two preceding pages by Thomas Deans, clerk to Lawrence Hill, clerk to the said Faculty, before the said Lawrence Hill and Thomas Deans.

(Signed) JOHN M'KINNON.

(Signed) Lawrence Hill, *witness.*
Thomas Deans, *witness.*

PAPERS RELATING TO THE BARBERS.

(See also Extract from Faculty Records, 4th August 1656, *ante* page 36, and Letter of Deaconry, 16th August 1656, page 41, No. V.)

No. XXVII.

EXTRACT ACT of COUNCIL of the MAGISTRATES of GLASGOW, De- No. 74 of Process- cerning in Submission between SURGEONS and BARBERS.

At Glasgow, the 16th day of September 1707.

The whilk day the Magistrates and Town Council conveened, John Aird, Provost; James Coulter, Henry Smith, and Thomas Hamilton, Bailies; John Anderson of Dowhill, late Provost, John Bowman, Dean of Gild, George Buchanan, Deacon Convener, James Glass, Robert Yuill, Robert Rodger, William Dickie, John Paull, Mathew Gilmour, and John Brown, as a committee appointed for hearing and considering the debates and differences betwixt the Chirurgeons and Barbers of this Burgh, and reporting their judgment and opinion to the Town Council thereanent, conform to an act of the Magistrates and Town Council, dated the sixth day of September jajvj, and six years, represented and reported, that the chirurgeons and barbers of this burgh, being in the year jajvj and fifty-six years, upon their joyst application, erected in ane deaconry by the Magistrats and Council of this burgh, diverse debates and differences within these few years bygone, arisen betwixt the said chyrurgeons and barbers, which differences being in the year jajvj and four, been brought in, a supplication from the barbers before the then Magistrats and Town Council, they, by their act dated the eight day of May the said year, did give their opinion and judgment as to some few particulars, but brought not the saids differences to a full determination, as is contained in the said act;—and that thereafter, the saids debates and differences continuing betwixt the said two parties, both of them of late did submit the determination of the samen to the Magistrats and Town Council: Whereupon the said Magistrates and Town Council, by their said act in September last, gave power and commission to the reporters, or seven of them, to be a sufficient quorum, to meet with the saids parties, and receive in from them their several complaints each upon others, and hear the haill debates and differences betwixt them, and to take the same to our consideration, and make report of their judgment thereanent to the Council, that they might proceed therein, and do

6. Sept: 1706.

1656.

1704.

as they think just ; and further represented and reported, that conform to the said commission, the reporters had convened both parties before them, and had received in wryte, ane representation given in to them by the barbers against the chyrurgeons, containing the particular grievances of which they crave to be redressed, which being given out to the chyrurgeons, they returned the same, with their answers thereto, and the answers being given out to the barbers, they also given in replies to the samen ; as also there was produced before the reporters the copy of their letter of deaconry, and that the saids reporters, as having commission, as said is, having taken full consideration of the whole matter, it was the reporters' opinion and judgment, that the Magistrats and Town-Council should find and declare as follows, viz.—*Imprimis*, That the whole qualified barbers should, with the qualified chyrurgeons, have free access to vote for ane chyrurgeon deacon for visitor, conform to their letter of deaconry.—*Secondly*, That the visitor or deacon choose his own three masters ;—that the trades three masters be elected and chosen by poll, out of the whole trade, one after another, and no lites to be made (out) at their election.—*Thirdly*, That the collector to the trade be year about ane chyrurgeon, a barber *per vices*, who is to be chosen by the haill trade.—*Fourthly*, That there be always ane chyrurgeon, and ane barber box-masters.—*Fifthly*, That the trade have four quarterly meetings in the year, conform to the custom of other trades, and that the whole trade be lawfully warned to the saids meetings, and to the collector's compt, making election of any office-bearers, to making any acts of the trade, and when any weighty emergent falls out in relation to the affairs of the trade ; and that the whole trade be lawfully warned thereto, as said is, to ane particular dyet.—*Sixthly*, That a physician preses is, or can be noe member of the trade, and can neither sitt nor vote therein, and that the visitor do only preside, conform to the letter of deaconry.—*Seventhly*, that the haill barbers that are now unentered, and qualified to enter, shall have free access to enter from the date of their practising, and to have their prentices booked from the date of yr. indentures.—*Eighthly*, As to the number, kind, or qualities of the trade, viz.—of the chyrurgeons and barbers, that should be members of the convener's house, in caise that at any tyme hereafter, the said trade be re-united to the Convener's-House,—that when the said reuniting does exist, that it be in the power of the visitor or deacon to nominat the members of the trade to fill the Convener's-House, in the same manner as the visitor or deacon was in use to do, when the trade was united to the Convener's-House.
Ninthly, That as to the barbers being reimbursed of their expenses and charges debursed by them since the differences arose betwixt them and the chyrurgeons, in respect that the chyrurgeons have acknowledged that what expenses they were at in reference to the plea betwixt them and the barbers, the samen was pay'd out of the public stock of the trade ; that, therefore, the barbers ought and should have their just expenses and charges reimbursed to them out of the public stock of the trade also, and that at the sight of the Magistrats, who are to cognosce upon the justness and verity of the said accompt of expenses. *Tenthly*, That the barbers have, and shall have no

interest to the tryall of the qualifications of ye chyrurgeons, or in any faults committed by the saids chyrurgeons in the exercise of their employment as such ; and that what privileges are in favours of the barbers, are always but prejudice to the liberties and privileges of the chyrurgeons granted to them by their gift from King James the Sixth. *Eleventhly*, That any former acts of the trade contrair to and not agreeable with what is above written, and to the letter of deaconry, be voyd and null, and have no effect in all tyme hereafter. Which representation and report above written being heard and maturely considered by the saids Magistrats and Town Council, they not only as arbitrators nominat by the saids chyrurgeons and barbers as said is, but also as their superiors, and having power to determine in all such differences and debates that may arise in and among incorporations of this burgh, doe hereby RATIFIE and APPROVE the haill foresaid report and opinion of the said committee, and haill points and articles of the samen, as they are above insert, and have interponed and hereby interpone their authority thereunto ; and FIND, DECLARE, and DECERN, that the articles above written shall be binding upon each party of the sds. chyrurgeons and barbers incorporat by the said letter of deaconry, as said is, and shall be inviolably obeyed and observed by them in all tyme hereafter.

Extracted from the Records of Council, by

(Signed) A. TURNER.

No. XXVIII.

AGREEMENT betwixt the CHYRURGEONS and BARBERS of Glasgow, as to No. 58 of Process.
the Property and Stock which accressed from the Gift of King James, belonging to the Faculty, and that which accressed from the Letter of Deaconry, belonging to the Corporation of Surgeons and Barbers.

16th September 1708.

At Glasgow, the 16th day of September, one thousand seven hundred and eight years, It is contracted, aggred, and finally ended, between the persons parties underwritten : They are to say, Thomas Hamilton, deacon or visitor of the Incorporation of Chyrurgeons and Barbers within the city of Glasgow, Mr Henry Marshall, Robert Grahame, Mr Robert Houston, Mr Alexander Tran, William Thomson, John Boyd, John and David Halls, Alexander Knox, Alexander Porterfield, John Bogle, Andrew Reid, and Hugh Fulton, Chyrurgeons in Glasgow, *on the ane part*; and Charles Anderson, Thomas M'Aulay, Walter Robertson, Alexander Milne, John M'Aulay, William Wallace, John Neilson, Robert Kerr, Robert Arbukle, Andrew Younger, William Wright, Alexander and John Hutchisones, Duncan Fleming, John Leitch, John Petigrew, John Sheriflaw, William Neilson, Robert Gray, James Horn and James Pollok, barbers there, *on the other part*; THAT is to SAY, Forasmuch as the saids chyrurgeons and barbers within the said burgh of Glasgow, and their successors, chyrurgeons and barbers there, are united

16. Sept. 1707.

and erected in ane corporation and trade, conform to ane letter of deaconrie granted to them be the magistrats and town council of this burgh, dated the 16th day of August 1656 years, and conform to ane act or decreet arbitral of the magistrats and town council of the said burgh, dated the sixteen day of September last, Jajvij and seven years, *Be virtue* whereof there has several emoluments, profits and casualties accressed and fallen to the said corporation, by payment of freedom fines, by Intrants' Quarter accompts of freemen, within the said burgh of Glasgow: *Lykeas* the said chyrurgeons have, by virtue of a Gift, long before the said letter of deaconrie, granted in favours of them and their predecessors, for trying all practisers of chyrurgerie within the shires of Lanerk,

and admitting and licenting them, according to their knowledge, and for fyning of delinquents, and who practise within the sds bounds, without being found qualified and having licence, as said is, *also*, resieved in several summs of mony as fynes imposed upon delinquents, admission of Intrants and quarter accompts; Both which stocks, als well that last above mentioned accressing from the sd gift, belonging properly and peculiarly to the sds chyrurgeons, and in which the barbers pretend no interest, *as* that first above mentioned, accressing from the said letter of deaconrie which belongeth to the chyrurgeons and barbers *in cumulo*, have been confounded, lent, applied, and oyrwayes disposed on, without distinction, which, without ane amicable division, may occasion differences and pleas; *for preventing whereof*, and of all debates that may arise thereanent, now and in all time coming, It is hereby expresslie agreed to betwixt the saids parties, as follows, viz. In the *first* place, That the books, skelitons, and all rarities now in the hall belonging to the said corporation, or that at any time hereafter shall appertain to them, shall now and in all time coming, pertain and belong to the saids chyrurgeons and their successors only, and to which the barbers and their successors are to pretend no right, now, nor at any time hereafter. And in the *next* place, That the hall in Trongate of Glasgow, belonging to the said trade, with the pictures, tables, table cloaths, chayres, and all oyr utensils therein, appointed for their common meetings, shall, in all time coming, remain for ever common, to the effect forsd, to both the Facultie of Chyrurgeons, and the corporation and trades of chyrurgeons and barbers. And *thirdly*, That their haill other stock, both heritable and moveable, now pertaining and belonging to them, shall be divided, belong and appertain as follows, viz. three fifth parts thereof to the Faculty of Chyrurgeons only, now and in all time coming, to be managed and disposed of by them only, secluding the barbers and their successors from any benefits thereof, or any management y'rentill; and the other two fifth parts y'rof to the said trade of chyrurgeons and barbers *in cumulo*, now and in all time coming, to be managed and disposed of by the sd joynt trade of chyrurgeons and barbers, and the deacon or visitor, and masters thereof, now and in all time coming. And it is hereby agreed to, that the deacon or visitor of the said trade of chyrurgeons and barbers, shall preside in all meetings of the sd trade and corporation of chyrurgeons and barbers within the said citie of Glasgow, and that thir presents shall be but prejudice to the foresaid letter of deaconrie, granted be the

Magistrats and Town-Council of Glasgow, dated the sd sixteen day of August 1656 years, and of ane act of the saids Magistrats, relative to, and corroborative of the sd letter of deaconry, dated the 8th day of May 1704 years, and of the foresaid act and decreet of the saids Magistrats and Town-Council, determining differences betwixt the said chyrurgeons and barbers, daited the said sixteen day of September last 1707, all which shall remain firm and inviolable in all points in all time coming ; and these presents shall not be effectual any further than the samen are consonant and agreeable to the saids letter of deaconry, acts and decreeet foresaid, and no further. And it is hereby expressly provyded and declared, that in caise of any future difference betwixt the saids chyrurgeons and barbers anent the saids parties, their fullfilling of the premisses to others, that the same shall be submitted and referred, lykeas the said parties for themselves, and their successors in office, do hereby submit and referr the samen to the Magistrates and Town-Council of Glasgow for the time. And it is hereby further agreed between the saids parties, that it shall always belong to, and be the part of the Deacon and Visitor of the chyrurgeons and barbers within the said Burgh of Glasgow, and his chyrurgeon masters, conform to the foresaid letter of deaconry, to examine all chyrurgeons residing or practising within the said Burgh, appoint them their essay and essay-masters, and to enter them when found qualified ; and that the visitor or Faculty of Chyrurgeons for the country shall admitt and enter chyrurgeons practising in the country as they find cause ; but that the said Visitor for the country be only ane ordinar member for the Corporation of Chyrurgeons and Barbers in their meetings. Consenting to the registration hereof in the books of Council and Session, or any oyrs competent, therein to remain for preservation, and y'rto constitute

procurators, &c. In witness whereof thir presents (written be Gilbert M'Merkine, sert^r to James M'Bryd, toun-clerk of Glasgow,) are subscribed be both parties, att place, day, moneth and year of God above wri'n, before thir witnesses, Hugh Crawford, Sert^r to John Syme, wryter in Glasgow, and the said Gilbert M'Merkine.

Alexander Hutchison,
John Hutchison,
John Sheriflaw,
John Neilson,
Robert Kerr,
John Pettigrew,
James Horn,

Hugh Crawford, *witness*,
Gilt M'Merkine, *witness*.

Thomas M'Aulla,
Charles Anderson,
Walter Robertson,
Alexander Milne,
William Wallace,
Andrew Younger,
Duncan Fleming,
John Leitch,
William Neilson,
John M'Aulla,
James Pollock,

Thomas Hamilton,
Alexander Porterfield,
William Thomson,
James Calder,
John Bogle,
A. Knox,
John Boyd,
Hugh Fulton,
David Hall,
Hen. Marshall,
Andrew Reid.

No. XXIX.

No. 59 of Process. ACT of COUNCILL, approving ane Act of the Trades-House, in reference to the CHYRURGEONS and BARBERS.

Att Glasgow, the fourth day of January 1714 years.

The qlk day the Magistrats and Town-Counsell convened, John Grahame, deacon convener, produced ane act of the Trades-house, daited the 29th of October last, by-past, bearing, that they had reconsidered their interloqr. and sentence upon the difference between the chyrurgeons and barbers, qch was pronounced upon ye first of July jajvji and twelve years, upon ane application made by Mr William Stirling, craving to be admitted chyrurgeon, and to be received to the privileges of the Incorporation,—and qch sentence was appealed from by the chyrurgeons, and laid before the Town-Council of this burgh, by ane appeal and representation, to which answers were made by the barbers,—and thereupon much trouble hes been given to ye Town-Council, arysing from mistakes received by the said parties, as to the import of the sentance of ye s^d Trades'-House : Therefore, they do declare, enact, statut, and ordain, that the import, sense, and meaning of their decreet and sentance is, that where an intrant is found qualified by the chyrurgeons to practise as such, and shall apply for his admission to the priviledge of the deaconry, and to practise in Glasgow, if the chyrurgeons shall dispense wt. their exclusive priviledges. The joyst incorporat trade of chyrurgeons and barbers shall have vote in the stating of the fyne by the intrant, and that the fyne shall be applied to the common stock of the chyrurgeons and barbers ; and find and declare, that if either of the s^d. parties, chyrurgeons or barbers, shall quarrell, impugn, or contravert any part of the above sentance, or shall, by any process, acclaime or pretend to exemption therefrom, that the partie quarrelling, or reclaiming by a process, shall have no access to the common stock for defraying any part of the expenss yr anent ; and recommends to ye Town-Council of this burgh to approve and ratifie ye foresaid sentance of the Trades-house ; and this act and sentance for clearing the import and meaning of the same, as the said act bears :—Qch act being read in presence of, and considered be the said Magistrats and Town-Counsell, they ratified and approved, and hereby ratifies and approves of the same, and ordain both parties of chyrurgeons and barbers, to stand thereto, according to the import and explanation mentioned in the said act.

Extractum per me.

(Signed)

Jo. M'GILCHRIST, Dpt. Clk.

No. XXX.

ACT of COUNCILL anent differences between the **SURGEONS** and **BARBERS**. No. 60 of Process.
BERS, 7th November 1719.

*At Glasgow, the seventh day of November one thousand seven hundred
and nineteen years.*

The which day, the Magistrates and Town-Counsell convened, the Pro-
vesst and others of the committee appoynted by a former act, dated the 15th
day of September last, for considering the petition then given in to the Coun-
sell by the surgeons, complaining of ane sentence passed by the Conveners-
house against them, in favours of the Barbers, finding that the barbers and
their sons, sons-in-law, and prentices, ought all equally to be admitted to the
practice of surgerie and pharmacie, as well as barberiseing,—they being first
found qualified by the deacon and surgeon-masters for such practise, and that
without any distinction betwixt the sons, sons-in-law, and prentices of surgeons
and barbers, for payment of the like freedom fines, and oyr dews, as the sur-
geons, their sons, sons-in-laws, and prentices do pay. Against which sentence
the surgeons had protested, as prejudicial to them, and appealed to the Magis-
trats and Counsell,—Reported that the surgeons had given in before the com-
mittee, their reasons of appeal, and that the committee had given the same out to
the barbers to make answer thereto, who returned the same with their answers,
—and that the committee had heard, seen, and maturely considered the fore-
said sentence of the Conveners-house, upon the above difference, qch is daited
the twenty-fourth of August last, with the reasons of appeal by the sur-
geons against the same, and answers thereto by the barbers, and wryts and
acts therein founded upon, They are of opinion, that seeing, by the letter of dea-
conrie, the surgeons and barbers are incorporat into one body, and incorpora-
tion without distinction, upon the joynit application of surgeons and barbers,
and that there is no difference thereby made anent the soum to be payed for
the admission of a member to any of the said professions; and also, that it is
provided that no person admitted should presume to meddle with any more
poynts than those they were admitted to, and as they shd be booked; and that all
the acts made, either by the surgeons or barbers, from excluding persons from
those employments, are only against unfreemen; and that upon the repeated
submissions by both parties to the Magistrats and Town-Counsell, they, the
said Magistrats and Town-Counsell, have always approvit of the letter of dea-
conrie erecting both parties into ane incorporation,—and that, seeing every
surgeon and barber is a freeman of the incorporation, and that thereby their
sons, sons-in-law, and prentices, have an equal priviledge to be admitted mem-
bers of the incorporation, according to what, upon tryall, they shall be found
qualified to practise, and that the surgeons cannot be thereby prejudged, as
if strangers craving to be admitted with the barbers, and being admitted to

that practise, could practise surgerie,—in respect no brother can practise any farder than the imployment into which he is admitted, unless he pay in a new upsett, and be admitted of new; therefor, the Reporters are of opinion, that the sentence of the Conveners-House is consonant and agreeable to the letter of deaconrie, and that there is no prejudice thereby done to either partie, and that the said sentence ought to be approven; and are of opinion, that most of the differences that have hitherto happened betwixt the said parties, is from ane undue extension of the rights and privileges conveyed to ye Surgeons by the Gift of King James the Sixth, in the year 1599, which both parties endeavour to confound with the letter of deaconrie, whereas the barbers can justly pretend to no privilege by that Gift, and the powers and privileges committed thereby to the Surgeons and Physicians gives them no furder powers as to practitioners within the city of Glasgow, than those who practice in the haill neighbouring shyres, and can never be made use of in prejudice of the letter of deaconrie.—Which report above writen being heard, and the foresaid sentence of the Conveners-House, with the reasons of appeal by the Surgeons against the same, and answers thereto by the barbers, and wryts and acts founded upon, all read in presence of, and duly considered by the Magistrates and Counsell, they approved, and hereby approve of the sentence foresaid of the Conveners-House, and ordained, and hereby ordain the same to take effect, and be observed.

Extractum per me.

(Signed) Jo. M'GILCHRIST, *Dpt. Clk.*

No. XXXI.

No. 61 of Process. DEMISSION and RENUNCIATION by the SURGEONS and PHARMACIANS, of the Letter of Deaconry,—19th December 1719.

Unto the Honourable the Magistrates and Town-Council of Glasgow, the representation of the Surgeons and Pharmacians in Glasgow, subscribing, Humbly Sheweth,—That the Physicians, Surgeons, and Pharmacians in Glasgow, for the good of the country, and safety of ye leiges, were by Gift and Charter granted by King James the Sixth, authorised to examine all practysers in medicine, surgery, and pharmacy in the said city, and the five western shires of Scotland, and to fine and discharge all ignorant and unskilful practysers. A considerable time after this gift, the surgeons and barbers in Glasgow (no doubt with a view to the interest of both societies), were incorporate together, and as such had the common benefit and representation of ane incorporation in the place; but at the same time, as their employments were different, had several regulations and acts which reported ye distinct bodys, and partly the fines for surgeons as the most considerable business was greater, and that of the barbers lesser, and the time of the serving of prentices to surgeons and barbers was also different, the surgeons' prentices serving only five years, and the barbers seven; agree-

ably thereto, the surgeons and pharmacians, after they were incorporate with the barbers, by a letter of deaconry from the Magistrates and Town Council, made an act in 1679, which is ratified by the Town Council in anno 1691, and respects and regulates servants and intrants with surgeons and pharmacians only, in the terms of which act, the admission of intrant surgeons has been still regulate since the making of the act, and ye surgeons and pharmacians have possessed and enjoyed the same, without the least pretension from it in favour of the barbers or their servants, or sons or sons-in-law, until of late that the said act, (of which also the dispensing power was in ye surgeons, and so explained by act of the Magistrates and Town Council in anno 1714), has been explained by the deacons conveners' house, to extend and belong to the barbers, by their sentence, now ratified by the sentence of your honors, on our appeal to you.

We were very much surprised by this last sentence, which gave the barbers such ane advantage against us, as they themselves never thought they had right to, for fourty years before,—you, on the contrair, were sensible they had no right to, having frequently been fyned for practiseing in surgery and pharmacy, without any benefit ex'tring from their being incorporate.

From all which it is obvious, that we, as Surgeons and Pharmacians, have no advantage, but disadvantage, by the letters of deaconry, and the design of the Charter from King James is like to be frustrate.

And therefore, for the respect we have to ye good design of the foresaid Charter, and the sense we have not only of the great trouble the pleas betwixt us and the barbers ever since incorporate, have given to your honours, but also of the disadvantage we are under by being incorporate, as the letter of deaconry is now explained, and for removing of these greivances and pleas which we have been exposed and subject to by ane mixed state, which has been so intricate and perplexing to us, and the neighbourhood, we hereby *renounce, resign, surrender and friely upgive, overgive*, in the hands of the Honble Magistrates and Town Council of Glasgow, all right, privilege, and interest whatsoever which we or our successors had, have, or could pretend to, by or from ye foresaid letter of deaconry granted by the Magistrates and Town Council of Glasgow, erecting the Surgeons and Barbers into ane Incorporation, that the same may be extinguished and voyd as to us and our successors in office; requesting you our Honble Superiors not only to receive this our resignation and renunciation, and cause record the same in the books of the Town Council of Glasgow, but also to divide and appoint unto our Faculty such shares and part as belong to us in the common stock of the said incorporation, which we hereby submit unto your decision, we being most firmly resolved to follow our own affairs, and duly and faithfully to execute the trust given to us by the foresaid Charter, for ye good of all his Majestie's lieges, and to cultivate peace and a good understanding with all our neighbours, which the misunderstanding of our several interests by the foresaid letter of deaconry has so long and much hindered. In witness qrof these presents, consisting of this and ye preceding page, wm by John Herbertson, wryter in Glasgow, are subsd by us, M. Henry Marshall, William Thomson, Alexander Porterfield, John Boyd, Thomas Hamilton,

James Calder, Hugh Fulton, Jno Melville, M. William Stirling, Robert Wallace, Jno Gordon, Robert Hamilton, Thomas Buchanan, and Alexander Mason, Surgeons and Pharmacians in Glasgow, at Glasgow, the nineteen of
 19. Dec. 1719. December Jajbij and nineteen years, before these witnesses, Jno Johnston, apprentice to the said Robert Wallace, and William Maitland, son to Mr William Maitland, Minister of ye gospel at Mauchline. *Sic subscrabitur.*

Jno Johnston, witness.	John Boyd, Jo. Melville, Robert Wallace, James Calder, Hugh Fulton,	Thomas Hamilton, Jo. Gordon, Robert Hamilton, Alexr Mason, Alex. Porterfield,
William Maitland, witness.	He. Marshall, Wm Stirling,	T. Buchanan, Wm Thomson.

(The above is recorded in, and extracted from the Town-Council Books of the City of Glasgow, of date 22d September 1722.)

No. XXXII.

No. 33 of Process. ACT of COUNCILL of the MAGISTRATES of GLASGOW, accepting of the Demission and Renunciation of the Letter of Deaconry by the SURGEONS, and dividing the Stock betwixt them and the BARBERS, 22d September 1722.

At Glasgow, the twenty-two day of September, one thousand seven hundred twenty-two years.

The which day the Magistrates and Town-Council convened, the committee appointed by a former act, dated the thirteen day of January last, To whom it was remitted to consider the demission and renunciation given in to the Magistrates and Council by the Surgeons of this citie, of the letter of deaconrie in their favours, in conjunction with the Barbers, Reported, That they having considered the said demission and renunciation, whereby the Surgeons pray the Magistrates and Council to accept y'rof, and to divide and appoint unto them such share of the common stock as the Magistrates and Council should think fitt, qch they thereby submit unto their decision : And also, having considered a petition subd by the Barbers unto the Magistrates and Council, lyke-ways submitting to the said Magistrates and Council to determine all questions betwixt the Surgeons and them, with respect to the division of the stock, herett' and moveable, q'r'in they have a common interest ; and craving, that upon the Council accepting of the demission and renunciation by the Surgeons, the Council would be pleased to grant a letter of deaconry to the

Barbers by themselves ; And having considered a contract of agreement betwixt the said Surgeons and Barbers, dated the sixteen day of September Jajvij and 16. Sept. 1708. eight years, whereby it was agreed that the hall in the Trongate of Glasgow should be common to the Facultie of Physicians and Surgeons, and to the Incorporation of Surgeons and Barbers,—and that their haill other stock, heritt' and moveable, should be divided as follows, viz. three fifth parts to the said Facultie, and two fifth parts to the said Incorporation ;—and that their stock of money at the time was accordingly so divided, and that thereby likeways all differences q^tsomr are referred to the Magistrats and Councell. And also, having considered ane application to the Magistrats, by the said Surgeons and Barbers, for having the above hall, and o'yr houses, and yard contiguous thereto, valued by fitt persons, in order to their disposing y'rupon, bearing a consent that the yard should be separately valued and retained by ye Magistrats and Town-Council, at the pryece to be put y'rupon, for the accommodation of a new street. And that the Magistrats had accordingly named fitt persons, who, upon oath, valued the said hall, houses, and yard, and having heard ane offer by the said Surgeons to accept of the said hall and houses, and pryece at qch the yard is valued, (qch yard is to be retained by the toun,) at the rate of six thousand merks Scots money, and the tables, chayers, pictures, carpet, candlesticks, chimney, and pertinents yrof, at four hundred fourty six pund one shilling Scots money, and a consent by the barbers to accept of that price ; of which two soumes there will fall to the share of the Incorporation of Surgeons and Barbers, the soume of nineteen hundred and three pund, six pennies Scots money, and the remainder to the Facultie of Physicians and Surgeons ; and having considered that the oyr stock belonging properly to the said Incorporation, extends to two thousand three hundred twenty-nine pund, eleven shillings, two pennies Scots, distinct from the stock of the Facultie, and over and above a bond granted to ym by the deceist John Melvill, surgeon ; which two soumes extends to four thousand, two hundred thirty-two pund, eleven shilling, eight pennies, and is to be equally divided betwixt the Surgeons and Barbers, being two thousand, one hundred and sixteen pund, five shilling and ten pennies to each. And also the committee reported, that it is their opinion, that the bond for five hundred merks, granted to the Incorporation by the said deceased John Melvill for his freedom fine, in being receaved a member yrof, ought to be delivered up, as being granted for a cause given, qch did not follow, seeing the letter of deaconrie in favours of the Incorporation was shortly yrafter demitted and renunced by the whole Surgeons ; And that it is the opinion of the committee that the above yard should be retained by the Magistrats and Counsell for the accommodation of y^r new street, from the Saltmercat to their oyr new street, from the Trongate to the Bridgate, and building of houses on the said street ; and that the price yrof being two hundred and sixteen pund Scots, be furthwith payd into the Facultie and Surgeons, upon their and the barbers subscribing a disposition of the said yard in favours of the toun : And that the said Facultie and Surgeons ought to assign and dispone to the barbers the bond granted be the Lairds of Luss and Houston, for two thousand merks of prin^{ll} soume, and a'rent since

Lambass javji and eighteen, and ay and qll. payment and penalty yr'in contained, and the bond for fifty pund Scots of prin^l wt a'rent and penalty, granted by Anthonie Murray, and four pund sixteen shillings due by Duncan Fleming, barber, and the debt due by the Convener's-House, and to make payment to the said barbers of eighteen pund, three shillings two penny Scots, qch makes up the barbers share of the common stock, being two thousand one hundred and sixteen pund five shilling ten pennies Scots ; and that the Barbers renunce, discharge, assign, and dispone to the said Facultie and Surgeons, the hall and oyr houses adjacent thereto, and haill oyr debts due or addebtet to the said Incorporation, in so far as the Barbers have any right, claime, or pretence thereto ; And that it is the opinion of the committee, that the Councill should accept of the demission and renunciation given in by the Surgeons, and cause record the same in the Councill books ; and declare the letter of deaconrie, as to the surgeons and pharmacians, to be in all tyme coming null, v oyd, and extinct. *Which report* above-written being heard and deulie considered be the Magistrates and Councill, They approved, and hereby approve of the said committees' report in the haill heads and articles yrof ; and do hereby accept of the said demission and renunciation given in by the said Surgeons, and declare the letter of deaconrie as to the surgeons and pharmacians, to be in all tyme coming null, v oyd, and extinct ; and declare, that upon the Barbers application for a letter of deaconrie to them, they will grant the same in such terms as they shall find just and reasonable ; and by virtue of the several repeated submissions made by the Surgeons and Barbers to the Councill, with respect to the division of the stock qrin they have a common interest. The Magistrates and Councill, in the terms of the above report, do hereby accept of the foresaid yard at the foresaid pryce of two hundred and sixteen pund, to which the same is valued ; and enact and oblige themselves, and yr successors in office, for payment of the said soume to the Faculty and Surgeons, upon their and the Barbers granting a disposition of the said yard, in favours of the Magistrats and Councill, and yr successors in office, for the behoove of the communite of the said burgh ; And decern and ordain ye Facultie and Surgeons and Barbers to grant, subscribe, and deliver the said disposition betwixt and Martimess next to come ; And decern and ordain the bond granted by the said uniq^{ll} John Melvill, for five hundred merks, to be delivered up to his representatives, and discharged ; as also the Magistrates and Councill decern and ordain the Surgeons to assign and dispone to the Barbers the foresaid bond granted be the lairds of Luss and Houston, for two thousand merks of prin^{ll} and a'rent, since Lambass Jajyji and eighteen years, and ay and q^{ll} payment and penalty yrin contained ; and Anthony Murray's bond of fifty pund prin^{ll}, with a'rent and penalty, and four pund sixteen shilling due by Duncan Fleming, barber, and the debt foresaid due by the conveener's house, with warrandice from the Surgeons' fact and deed, and make payment to the said Barbers of eighteen pund three shilling two pennies Scots, to make up the Barbers share of the common stock, being two thousand one hundred and sixteen pund five shilling ten pennies. And likeways decern and ordain the Barbers to renunce, discharge, assign, and dispone, to the

said Facultie and Surgeons, the foresaid hall and oyr houses adjacent thereto, and haill oyr debts and effects due, addebtied, or belonging to the said Incorporation, in so far as the Barbers have any right, claim, or pretence thereto ; and decern and ordain each of the said parties to perform their respective parts to oysr, according as they are above decerned and ordained betwixt and Martmess next ; and ordain the Surgeons' demission and renunciation to be booked in the prin^ll Councill book.—Extracted on this and the two preceding pages by me,

(Signed) Jo. McGILCHRIST, *Dept. Clk.*

No. XXXIII.

**DISPOSITION and RENUNCIATION by the BARBERS to the
SURGEONS, 19th October 1722.**

No. 34 of Process.

Be it known to all men by these presents, We Alexander Milne, present deacon of the Incorporation of barbers in Glasgow, John M'Aulla, Charles Anderson, John Robertson, Robert Kerr, James Pollok and William Smith, masters, and Alexander Legat, Collector yrof, for ourselves, and as representing the said Incorporation, and whole members thereof, Forasmuch as the Surgeons and Barbers in Glasgow were for some time erected into ane Incorporation and Deaconrie ; and whereas the said Surgeons gave into the Magistrates and Council of Glasgow, a dimission and renunciation of their privilege and haill efect of the said deaconrie, in so far as concerned them the said Surgeons, and submitting to the said Magistrates and Councill to determine all questions betwixt the Barbers and them, with respect to the division of the stock, heritable and moveable, wherein they had a common interest with the Barbers ; and whereas application was made by the Barbers to the said Magistrats and Councill, lykeways submitting to them to divide and appoint unto the sd Barbers their share of the common stock, and that upon the Councill's accepting of the Surgeons dimission and renunciation, they would be pleased to grant to the sd Barbers a letter of deaconrie by themselves, Likeas by a contract of agreement betwixt the Surgeons and Barbers, dated the 16th day of Septemr jaivij & eight years, It was agreed that the Hall in the Tronegate of Glasgow should be common to the Facultie of Physicians and Surgeons, and to the Incorporation of Surgeons and Barbers ; and that the haill oyr. stock, heritable and moveable, should be divided as follows, viz. three-fifth parts to the said Facultie, and two-fifth parts to the said Incorporation of Surgeons and barbers : And whereas the said Magistrats and Councill, by their act, of the date the twenty-two day of Septemr. last, have accepted of the Surgeons dimission and renunciation, and declared the letter of Deaconrie, as to them, to be null, void and extinct, and have lykeways granted a new letter of Deaconrie in favours of the Barbers, by themselves ; and that, in pursuance of the several repeated submissions made by the s^d Surgeons and

16. Sept. 1708.

Barbers, the said Magistrats and Councill, by the said act, have determined that the Barbers part of the stock belonging to them, and the Surgeons, as incorporate, and in common, separate and distinct from the Faculties part, does extend to two thousand one hundred sixteen pund eleven shillings two pennies Scots money, and that for payment and making up to the Barbers of the said soume of two thousand one hundred and sixteen pund eleven shilling two pennies money foresaid, as their part of the common stock, the said Surgeons should assign and dispone to the Barbers the debts after-mentioned, as a part of their common stock, viz. the bond granted be the Lairds of Luss and Houstoun, for the soume of two thousand merks Scots of prinll with a'rent since Lambass jaivij and eighteen years, and ay and till payment and penalty yr'n contained ; and a bond of fifty pund of prinll. with a'rent and penalty of Anthony Murray's, and four pund sixteen shillings Scots, dew by Duncan Fleming, barber, and the debt dew by the Conveener's house, and lykeways to make payment to the said Barbers of eighteen pund three shilling two pennies Scots money ; and that the Barbers should renunce, assign, and dispone to the Facultie of Surgeons, the foresaid Hall, and oyr houses adjacent thereto, lyand in Trongate of Glasgow, and all oyr debts dew or addebtied to the Incorporation of Surgeons and Barbers, in so far as the Barbers had any right, claime, or pretence thereto, and decerned in the above terms, as in the said act at more length is contained: And now, seeing the said Surgeons, in implement of their part of the said decreet, have, by their assignation, of the date hereof, assigned to and in favours of us the said Barbers, the forsaid debts dew by the Lairds of Luss and Houston, Anthony Murray, Duncan Fleming, and the Trades House, and lykeways have made payment to us of the forsaid soume of eighteen pund three shilling two pennies Scots money : And considering, that albeit, when the forsd hall and oyr lands adjacent thereto, were acquyred, the rights yrof were taken in favours of the Facultie of Surgeons, without respect to the Barbers as then incorporate with the Surgeons, and which, by the said rights, are designed as follows, viz. All and Haill, that fore tenement of land, high and laich, lying within the burgh of Glasgow, on the south side of the Trongate Street yrof, bounded by the lands of umql John Hume on the east, the Tronekirk on the south, the Hie Street on the north, and that tenement of land which belonged to Mathew Hamilton on the west part ; As also that tenement of land, with the piece waist ground, coall-house, brew-house, midden-stedd, cellar, stable, and yeard, belonging thereto, at the back yrof, lyand on the south syde of the said Trongate Street, bounded by the lands of William Watson, taylor, on the west, the aisle or common closs, and tenement above mentioned, re.xive on the east, the yeard sometime belonging to Robert Thomson, thereafter to John Boyd, surgeon, on the south, and the Hie Street on the north parts, Whereby the right of the said lands is already established in the person of the said Facultie of Surgeons ; Yet, nevertheless, in implement of the Barbers part of the said decreet, Wit ye us, the Deacon, Masters, and Collector of the new Incorporation of Barbers, for ourselves, and as representing the said Incorporation, to have renounced, discharged and disponed, as we, by these presents, for ourselves and our successors in office, renunce, discharge, and for ever dispone to and in

favours of William Thomson, present visitor of the Facultie of Surgeons in Glasgow, and John Gordon, as present Collector yrof, and their successors in office, for themselves, and in name of the remanent members of the said Facultie, for the use, weill, and behoove of the poor decayed members yrof, all right, title, interest, claime of right, propertie or possession, we, the said Barbers, or our predecessors or successors in office, had, have, may, or can have, claime, or pretend to the foresaid re.xive lands, or to any part or portion yrof in time coming ; together with the foresaid agreement formerly made betwixt the Surgeons and Barbers, determining our interest in the said lands, and oyr common stock, and all acts relative to the same, in favour of the Barbers, and haill effect and substance yrof, for now and ever ; And bind and oblige us, and our successors in office, to warrant this our discharge and renunciation at all hands, and against all deadly, the said Surgeons being always obliged to dispone to the Magistrats and Councill, the foresaid yeard, at the prycce, and in the terms of the foresaid act of Councill, according as is therein mentioned : And sicklyke, we hereby assign and dispone to and in favours of the said Visitor and Collector of the Facultie of Surgeons, and their successors in office, for the use and behoove foresaid, all and sundrie whatsomever debts and effects and oyr means, due, addebtied, any manner of way, or belonging to the said Surgeons and Barbers, as formerly incorporate, in so far as the barbers have any right, claime, or pretence thereto, excepting always the debts particularly above narrated, assigned to us, the said Barbers, for our share of the said common stock ; turning and transferring our right in the premises, in that far, in favour of the said Visitor and Collector of the Facultie of Surgeons, whom we hereby surrogate and impute yrin, with power to them to intromit with, use, and dispose upon the said subjects above assigned at their pleasure, and as their own propertie, and generallie to do every thing requisite anent the premises als fully and freely, in all respects, as we might have done ourselves, before the making hereof : Which assignation we oblige us, and our successors in office, to warrant from our own proper fact and deed, allenerly : Consentting thir presents be reg.rat in the books of Councill and Session, or oyrs competent, therein to remain for preservation ; and constitute

procurators. In witness qrof, we have subd. the said presents, consisting of this and the foregoing two pages, (written on stamped paper be John M'Gilchrist, wryr. in Glasgow,) at Glasgow the nineteen day of October jaivij and twenty-two years, before these witness-
es, Charles Miller, wryter in Glasgow, and the said John M'Gilchrist.

CH. MILLER, *witness.*
JO. M'GILCHRIST, *witness.*

JON. ROBERTSON.
ALEXR. MILNE.
ROBT. KER.
JOHN M'AULLA.
WILLIAM SMITH.
JAMES POLLOK.
ALEXR. LEGAT.
CHARLES ANDERSOUN.

DOCUMENTS FOUNDED ON BY PURSUERS AND CHARGERS.

No. I.

BULL OF POPE NICOLAS V., 1450.

No. 95 of Process.

BULLA NICOLAI P. V. super creatione Universitatis in civitate Glasg.

NICOLAUS Episcopus, servus servorum Dei ad perpetuam rei memoriam. Inter cæteras felicitates quas mortalis homo in hac labili vita ex dono Dei nancisci potest, ea non in ultimis computari meretur, quod per assiduum studium adipisci valet scientiæ margaritam. Quæ bene beateque vivendi viam præbet, ac peritum ab imperito sui pretiositate longe facit excellere, et ad mundi arcana cognoscenda dilucide introducit. Suffragatur indoctis, et in infimo loco natos vehit in sublimes et propterea sedes Apostolica rerum spiritualium, et etiam temporalium provida ministratrix, et cujusvis commendabilis exercitii perpetua et consultans adjutrix ut eo facilius homines ad tam excelsum humanæ conditionis fastigium acquirendum, et acquisitum in alios refundendum semper cum augmento ducantur. Illos hortatur; eis loca preparat. Illos juvat et fovet ac favoribus prosequitur gratiosis; cum itaque sicut pro parte carissimi in Christo filii nostri Jacobi Scotorum regis illustris nuper fuisset expositum; nobis quod quod ipse rex non solum ad utilitatem reipublicæ ac incolarum et habitatorum terrarum sibi subjectarum, sedet aliarum partium vicinarum laudabiliter intendens in ejus civitate Glasguensi, tanquam in loco insigni et valde accomodo, in quo aeris viget tempesties, victualium ubertas cæterarumque rerum ad usum humanum pertinentium copia reperitur, desideret plurimum fieri et ordinari per sedem Apostolicam studium generale in qualibet licita facultate, ut ibidem fides Catholica dilatetur, erudiantur simplices, equitas servetur, judicii vigeat ratio, illuminentur mentes, et intellectus hominum illustrentur. Nos præmissa et etiam eximiam fidei et devotionis sinceritatem quam idem Rex ad nos et Romanam ecclesiam gerere comprobatur, attente considerantes, ferventi desiderio ducimur quod civitas ipsa scientiarum ornetur muneribus. Ita ut viros producat consilii maturitate conspicuos, virtutum redimitos ornatibus, et diversarum facultatum dignitatibus eruditos. Sit que ibi scientiarum fons irrigans, de cuius plenitudine haurient universi literarum cupientes imbui. Documentis hiis igitur omnibus, et præsertim ydoneitatem ejusdem civitatis quæ, ut accepimus, ad multiplicanda doctrinae semina et germina salutaria producenda valde congrua et accomoda fore dicitur, diligenti examinatione pensatis, non so-

lum ad ipsius civitatis, sed etiam incolarum et habitatorum totius regni Scotiae, et Regnorum circumiacentium commodum atque proficuum, paternis affectibus excitati. Nec non ipsius regis in hac parte supplicationibus inclinati ad laudem divini nominis et orthodoxæ fidei propogationem, in eadem civitate generale studium auctoritate apostolica Erigimus et Statuimus, et etiam ordinamus ut in ipsa Civitate de cætero studium hujusmodi perpetuis futuris temporibus vigeat, tam in theologia ac jure Canonico et civili quam artibus et quavis alia licita facultate, quodque, Doctores, magistri, legentes et studentes ibidem omnibus et singulis privilegiis, libertatibus, honoribus, exemptionibus, immunitatibus, per sedem apostolicam, vel alias quomodolibet, magistris, doctoribus et studentibus in studio nostræ civitatis Bononiensis concessis Gaudeant et utantur; ac venerabilis frater noster Willelmus Episcopus Glasg. ac successores sui qui pro tempore fuerint Glasgn. Episcopi præfati studii Glasgs^{sis}. sint Rectores, Cancellarii nuncupati, qui habeant supra doctores, magistros, et scolares, ac alios de Universitate studii hujusmodi similem facultatem et potestatem, quam habent Rectores scolarum dicti studii Bononiensis, quodq. illi qui processu temporis bravium meruerint in facultate illa in qua studuerint, obtinere ac Docendi licentiam, ut alios erudire valeant; nec non Magisterii seu Doctoratus honorem petierint eis elargiri per Doctorem seu Doctores, Magistrum seu Magistros facultatis ejusdem in qua examinatio fienda fuerit, Epo. Glasgsi., nunc et pro tempore existente et Glasg. ecclesia pastoris solatio destituta vicario seu officiali in spiritualibus delictorum filiorum capituli dictae ecclesiae presententur; qui quidem episcopus vel vicarius seu officialis, aliis Doctoribus et Magistris ibidem tunc legentibus convocatis promovendos eosdem in hiis quae ad magisterii, seu Doctoratus honorem, quomodolibet requiruntur per se vel alium juxta morem seu consuetudinem in aliis studiis observare solitos, examinare studeant diligenter, eisque si ad hoc sufficienes et idonei reperti fuerint, hujusmodi licentiam tribuat seu magisterii impendant honorem; illi vero qui in eodem studio civitatis Glasguen. examinati et approbati fuerint, ac docendi licentiam et honorem hujusmodi obtinuerint, ut præfertur, ex tunc absque alia examinatione et approbatione deinceps regendi et docendi, tam in eadem civitate quam in singulis studiis generalibus in quibus regere et docere voluerint, plenam et liberam habeant facultatem, statutis et consuetudinibus etiam juramento, confirmatione apostolica vel quacunque alia firmitate, vallatis caeterisque contrariis non obstantibus quibuscumque. Nulli ergo omnino hominum liceat hanc paginam nostræ erectionis, constitutionis et ordinationis infringere vel ei ausu temerario contrahire. Si quis autem hoc attemptare presumpserit, indignationem Omnipotentis Dei et Beatorum Petri ac Pauli Apostolorum ejus, se noverit incursum. Datum Romae apud S'tum Petrum, anno incarnationis Dominicae millesimo quadragecentessimo quinquagesimo Septimo Idus Januarii Pontificatus nostri anno quarto.

Vera copia LAURENCE HILL, N. P.

(Sic subscr.)

Assero

WILLIAM MEIKLEHAM, N. P.

No. II.

LETTER of KING JAMES the SECOND to the BISHOP of Glasgow, 20th No. 87 of Pro.

April 1453.

Litteræ Regiæ Jacobi II. R. de libertate obtentæ hujus almæ Universitatis
per Duūm Willelmum Turnbul Epum. Glasg^{em}

JACOBUS Dei gratia Rex Scotorum omnibus probis hominibus totius terræ
sue clericis et laicis salutem.

Cum inter curas et sollicitudines quibus animus noster afficitur, et quæ no-
bis ex ministerio regalis dignitatis incumbant, ad ea sommopere retorque de-
bemus intuitum, per quem in regno nostro grata literarum studia teneantur et
proficientium in scientiis numerus augeatur. Hii sunt qui aulam dominici
gregis illuminant, et currentibus in studio insinuant iter rectum, dum quosdam
per fructum boni operis alliciunt ad virtutem, et in desiderium divinæ scientiæ
attrahunt alios per exemplum; sane ad fovendum et promovendum statum pro-
sperum et felicem almæ Universitatis Glasg. filiæ nostræ prædilectaæ ex intimis
desideriis incitamus studium et operam adhibere, et solerti animo manum nostræ
possibilitatis apponere ut nostris temporibus jugiter proficiat felicibus incremen-
tis. Eo vigilantius quo frequentius, ipsam vidimus viros producere scientia
decoros, viros alti consilii et moribus præsignatos, per quos cum de disciplinæ
fonte potaverit populus Christianæ professionis nobis commissus, virga equitatis
et justiciæ corripiatur, Ortodoxa fides solide defendetur, querelæ jurgiosæ
dirimanter, et reddatur unicuique quod debetur. Nos igitur præmissa digna
meditatione pensantes, notum facimus Universis quod omnes et singulos Rectores
qui pro tempore fuerint facultatum Decanos, procuratores, nationum regentes,
magistros et scolares in prælibata Universitate studentes, præsentes et futuros, sub
nostra firma pace custodia defensione et manutencionia suscipimus, et specialiter
reservamus, nec non eosdem Rectores, Decanos, Procuratores, regentes, magis-
tros, bedellos, scriptores, stationarios, pergamenarios et scolares continue stu-
dentes, dummodo prælati non existant, ab omnibus tributis, muneribus, exactio-
bus, taxabus, collectis, vigiliis, custodiis et pedagiis ammodo infra regnum
nostrum statuendis levand. seu quomodolibet percipiendis liberaliter eximi-
mus per præsentes. Quodque hanc nostram concessionem et gratiæ specialis
prerogativamq. indulta eisdem studentibus, pro perpetuis temporibus omnino
volumus inviolabiliter observari. Datum sub magno sigillo nostro apud Strivel-
ing 20 die mensis Aprilis anno domini 1453 et regni nostri anno 17.

(Sic subscr.)

Vera copia

Assero

LAURENCE HILL, N. P.

WILLIAM MEIKLEHAM, N. P.

No. III.

No. 88 of Process NOVA ERECTIO, or FOUNDATION CHARTER, of the COLLEGE
of GLASGOW, by King James the Sixth, 13th July 1577.

JACOBUS, Dei Gratia Rex Scotorum omnibus probis hominibus totius terræ suæ, clericis et laicis salutem. Sciatis quia nos ac fidelissimus noster consanguineus Jacobus, COMES DE MORTOUN, Dominus de Dalkeith, nostri ac regni et liegiorum nostrorum regens, intelligentes, quod annua proficia et redditus Collegii seu paedagogii Glasguen. tam exigua sunt, ut hac nostra aetate minime sufficientia sint ad sustentandum principalem, magistros, regentes, bursarios, et officiarios necessarios in quovis Collegio, nec adminiculandum sustentationi et reparationi ejusdem : Ac itaque volentes exiguitatem dictorum parvorum reddituum juvare, et ad faciendum et erigendum illic quandam faciem Collegii, pro zelo et bona voluntate, quam ad propagationem et incrementum bonarum literarum et juventutis instructionem gerimus, ut membra utilia ad serviendum ecclesiæ Dei et reipublicae intra hoc nostrum regnum, alantur, instruantur et edacentur, cum avisamento et consensu dicti nostri fidelissimi consanguinei et regentis, dedimus, concessimus, disponimus, incorporavimus et per mortificationem pro perpetuo confirmavimus, tenoreque præsentis cartæ nostræ, damus, concedimus, disponimus, incorporamus et per mortificationem pro perpetuo confirmamus dicto Collegio seu paedagogio Glasguensi, principali, magistris, regentibus, bursariis, servis et officiariis, per nos specificandis in nostra erectione et fundatione subsequenti, desuper confect et eorum successoribus, totam et integrum rectoriam et vicariam ecclesiæ parochialis de Govane, cum omnibus decimis, fructibus, redditibus, proficiis, emolumenis, devoriis, mansis, gleba, terris ecclesiasticis ejusdem, et suis pertinen. jacen. infra dicecesin Glasguen. et vicecomitatum nostrum de Renfrew, nunc per decessum quondam Magistri Stephani Betoun ultimi rectoris et possessoris ejusdem vacantem, idque liberas et exemptas a solutione tertiae taxationis seu aliarum impositionum quarumcunque : Tenendam et habendam totam et integrum prædictam rectoriam et vicariam ecclesiæ parochialis de Govane, cum omnibus fructibus, redditibus, proficiis, emolumenis, devoriis, mansis, gleba, terris ecclesiasticis ejusdem, ac omnibus suis pertinentiis, prædicto Collegio et paedagogio, principali, magistris, regentibus, servis, et officiariis ejusdem, ac successoribus suis pro perpetuo mortificat in futurum, cum potestate ipsis, per se, suos factores et servitores, ipsorum nominibus, dictis rectoria et vicaria utendi, gaudendi, et possidendi, ac decimas, fructus, redditus, proficia, emolumenta, devoria earundem, ac mansarum, glebarum, et terrarum ecclesiasticarum eisdem spectan. cum suis pertinen. percipiendi, levandi, et intromittendi, ac desuper ad usum et effectum suprascriptum disponendi, pro reductione et annullatione infeofamentorum feudifirmæ earundem mansarum seu glebarum, vel assedationum de eisdem, seu aliqua earundem parte vocandi et prosequendi, easdem de novo locandi et assedandi,

simili modo ac adeo libere et legitime, sicuti rectores vel vicarii dictæ ecclesiæ parochialis potuerunt, seu in usu facere consueverunt aliquibus temporibus retroactis sine aliqua revocatione, contradictione, aut obstacula quocunque: Ac etiam do novo dedimus, concessimus, ac pro nobis et successoribus nostris pro perpetuo confirmavimus, tenoreque præsentis cartæ nostræ, damus, concedimus, et pro nobis et successoribus nostris pro perpetuo confirmamus, dictis collegio, magistris, regentibus, studentibus, servis, et aliis officiariis subscriptis in eodem servientibus, omnes et singulos alios annuos redditus, fructus, devoria, proficia, et emolumenta, prædicto collegio, antea per quemcunque ordinem seu quovismodo fundata, donata et concessa ac præsertim, omnes et singulas terras tenementa, domus, ædificia, capellanias, hortos, pomeria, croftas, annuos redditus, fructus, devoria, proficia et emolumenta, firmas, lie obit-silver, ac annuos redditus quoscunque quæ quovis modo pertinuerunt, seu pertinere dinoscuntur, ad aliquas capellanias, altaragia, præbendas, in quacunque ecclesia seu collegio intra civitatem Glasguensem fundat vel de locis omnium Fratrum ejusdem civitatis; una cum omnibus et singulis terris, domibus, tenementis, et annuis redditibus quarumcunque terrarum, domorum et tenementorum intra dictam civitatem Glasguen. seu extra eandem, iisdem pertinen. et spectan. ac dicto collegio antea concess. et fundat.; Quos quidem fructus et proficia annuorum reddituum et capallaniarum cum Fratrum terris, domibus, redditibus et emolumentis antedict. nos et successores nostri, volumus et concedimus pacifice levari et disponi ad usum dicti Collegii, sine aliqua tertia impositione, aut aliqua alia taxatione quacunque, non obstantibus quibusvis legibus, consuetudinibus, parliamentorum actis, seu ordinationibus in contrarium; ac etiam cum potestate ipsis ad usum dicti collegij colligendi tertiam fructum omnium illarum præbendarum et capallaniarum, quarum præsentes possessores nunc vivunt: Reddendo inde annuatim dicti principales, magistri, regentes, bursarii, servi, et officiarii dicti collegii seu paedagogii Glasguen. et eorum successores, servitium communium precum et supplicationem Omnipotenti Deo pro statu prospero nostro et successorum nostrorum, ac doctrinam bonarum literarum et linguarum, aliarumque professionum necessariarum ac utendo bonis disciplina et ordine in dicto collegio, disponentes redditus in educationem juventutis, juxta erectionem et foundationem per nos desuper confectam, cuius tenor sequitur:

Jacobus Sextus, Dei gratia Scotorum Rex, omnibus et singulis Christiani nominis cultoribus salutem.

Cum Divina Providentia nos iis temporibus ad regni gubernacula perduxerit, in quibus Evangelii lucem, expulsis Papismi tenebris, Scotiae nostræ prælucere voluit; nosque imprimis sollicitos esse operteat, ut tantum Dei beneficium ad posteros nostros propagetur; neque id alia ratione commodius fieri possit, quam proba educatione et juventutis recta informatione in bonis literis, quæ, nisi honoribus et præmiis alantur, prorsus sunt interituræ: Hinc est quod nos, dum rem literariam passim per regnum nostrum in Dei gloriam promovere studeremus, animum etiam nostrum adjecerimus ad colligendum reliquias Academiæ Glasguensis quam præ inopia languescentem ac jam pene confectam, reperimus; et, cum concilio et consensu dilecti nostri consanguinei Jacobi Comitis a Mortoun, Domini Dalkeith, tutoris nostri et proregis charis-

simi, ei malo prospicere volentes, ad tela paupertatis delenda quæ bonarum artium studiosis maximopore infesta esse solent, dederimus et concesserimus, prout per præsentes, damus et concedimus et pro nobis ac successoribus nostris pro perpetuo confirmamus et ad mortuam manum perpetuo Unimus et confirmamus, collegio nostro Glasguensi, totam et integrum rectoriam de Govane, cum vicaria ejusdem, jacen. in diœcesi Glasguen. et vicecomitatu nostro de Renfrew, vacan. per de cессum Magistri Stephani Betoun rectoris ejusdem, non ita pridem vita functi, cum omnibus decimis, emolumentis, et fructibus, gleba, et mansionibus, omnibusque aliis commodis, quæ de jure aut consuetudine regni quomodolibet pertinere queant.

Volumus autem, in dicto nostro collegio duodecim personas ordinarias residere ad gymnasii commoda procuranda, et juventutem bonis literis informandum, quæ ex impensis et fructibus ejusdem alantur et sustententur, pro modo ac facultate redditum dicto collegio assignatorum, secundum discretionem gymnasianarchæ et regentium subscriptorum; Nimirum, gymnasianarcham, tres regentes, œconomum, quatuor pauperes studentes, servum gymnasianarchæ, coquum et janitorem; quorum singulos in suis muneribus obeundis sedulos esse volumus, et pro laboribus honoraria ac stipendia percipere, quo majore alacritate suis officiis invigilent. Ac primum quidem, omnes has duodecim personas collegialiter vivere volumus, quibus pro victu quotidiano assignamus ex præfato beneficio et rectoria de Govane extenden. in solidum in suo rental ad viginti quatuor celdras, viginti et unam celdras ad esculenta et potulenta dictis fundatis personis sufficienter, sine luxu et profusione, sustentandis, ut frugali victus ratione ad seriorem studiorum curam incitentur: Quod si, subductis rationibus, et calculo inito, quid fuerit residui id in pios usus Collegii et sarta tecta Collegij impendatur, eorum arbitratu quos postea in eadem hac fundatione Collegio invisendo præfecimus. Gymnasianarcham autem pium et probum hominem imprimis esse oporteat, cui totam Collegium et singula ejus membra subesse oporteat, cui in singulas Collegii nostri personas jurisdictionem committimus ordinariam; is in sacris literis institutus probe ad aperienda fidei mysteria, et reconditos Divini verbi thesauros explicandos, idoneus, linguarum etiam gnarus et peritus sit oportet; imprimis vero Hebraicœ et Syriacœ, cuius professorem esse instituimus; linguam enim sanctam, ut par est, promovere inter subditos nostros cupimus, ut scripturarum fontes et mysteria rectius apellantur; itaque dicto nostro gymnasianarchœ committimus, quo sedulitatis exemplum toti Collegio diligentia sua subministret, ut in dies singulos horam saltem unam prœlegendo impendat, quo tempore maxime fuerit opportunum; alternis autem diebus prœlectionem theologicam seligat ad explicandos scripturarum recessus; alternis linguam ipsam sanctam auditoribus explicaturus; die autem sabbatino immunem esse a prœlectionibus concedimus, quoniam totius septimanœ ratio ei ab auditoribus exigenda est, et opera danda formandœ ad Goyeanum populum concionis; nam, cum Collegium nostrum ex decimis et proventibus ejus ecclesiæ sustentetur, æquum esse duximus, ut qui temporalia ministrant spiritualia percipient, nec in pane vitæ, quod est Dei verbum, defraudentur; curam itaque quoad poterit diligentissimam adhibebit gymnasianarcha, ut eum populum pascat, et in recta morum et vitœ disciplina contineat, singulisqne diebus Dominicis adhortetur ad pietatem et probitatem: Resideat vero in dicto Col-

legio, neque inde pedem moveat ad longinquiorem aliquam profectionem, nisi re cum rectore academiæ decano facultatis, et ceteris suis Collegii regentibus, communicata et venia impetrata, graviori aliqua de causa aut evidenti Collegij commodo. Quod si gymnasiarcha, sine licentia legitime petita et obtenta, per triduum extra gymnasii septa pernoctaverit volumus ut muneri ejus, quod eo casu vacare pronunciamus, alias idoneus modo infra scripto sufficiatur. Quoties vero dictum gymnasiarchœ munus quovis modo vacare contigerit, regentes qui protempore fuerint nobis et successoribus nostris ejusdem vacationis denunciationem illico fecere tenebuntur, ut nos certiores facti, alium virum gravem et idoneum, qui id muneris obeat, præsentare possumus; cuius etiam præsentatio, omnibus etiam futuris temporibus, ad nos et successores nostros pertinebit; legitimum autem præsentandi tempus nobis et successoribus nostris erit intra triginta dies a denunciatione vacationis dicti muneris; quod nisi fecerimus, licebit personis electoribus subscriptis ad electionem idoneæ personæ, modo quo sequitur legitime procedere: Examinatio autem et electio dicti gymnasiarchœ ad Glasguen. Archiepiscopum, qui est Universitatis Cancellarius, rectorem Academiæ, facultatis decanum, ecclesiarum Glasguensis, Hamiltonensis, Cader, Monkland, et Renfrew, ministros et pastores qui ministerio verbi Dei tum fungentur, ac alios viros graves et doctos quos nos et successores nostri dictæ examinationi, electioni et admissioni adesse curabimus: Quam quidem examinationem, electionem, et, admissionem procedere volumus precedente edicto publico, valvis Collegii et ecclesiæ Glasguensis per regentes affixo, super præmonitione triginta dierum adminis admoneant. Insuper dicti regentes suo edicto, Sancti Andreanos, Aberdonenses, et si quæ sint aliæ nostræ academiæ, ut si qui sint idonei ad id munus capessendum præsto adsint ad diem condictam, quo neque favore, neque partium gratia, sed virtutis et eruditionis præstantia electio consummabitur, præfinito ad dictam electionem spatio quadraginta dierum duntaxat a die vacationis. Quod si infra indictum tempus præfinitum vir gravis, doctus et idoneus ex ejusdem electionis præscripta formula minime in dictum gymnasiarcham eligetur, ea vice ante dictœ personœ quibus examinandi, eligendi, et admittendi gymnasiarchæ jus fecimus, idem jus admittent, et eo casu nobis et successoribus nostris licebit provedere de remedio optimo, nisi per nos et successores nostros steterit, si forte personam quœ, facto examine, minus idonea comperietur, præsentaverimus: Quoniam verum eruditum hominem querimus, cuius humeris totius Collegii onus incumbat, eique insuper ecclesiæ de Govane curam demandamus, isque neque labores sustinere, neque sumptibus sufficere possit, nisi honestis præmiis invitetur; idcirco, pro honorario et constituimus ducentas marcas, annuatim levand. et percipien. ex preventibus et annuis redditibus dicti nostri Collegii, quœ ad idem ante præsentem nostram erectionem pertinebant, et quœ in suo rentalí perveniunt ad tercentum libras monete Scoticæ, ex quibus ducentas, ut dictum est, marcas dicto præposito attribuimus et assignamus, pro suis in Collegio laboribus, et pro ecclesiæ de Govane administratione, tres celdras frumenti, quas supra ex ejusdem ecclesiæ preventibus a communi tabula ad usus ministerij reservavimus: Et sic quidem præfectum nostri Collegii vitam suam instituere volumus, qui si negligentior fuerit in suo mu-

nere, et quæ sunt ei per specialem erectionem injuncta non impleverit, neque recipiscere velit, cum ter admonitus fuerit, per academiæ rectorem, decanum facultatis, Collegii regentes, vel eorum majorem partem, sed in malos mores proclivis fuerit, iisdem auctoribus exauctorabitur quos prius in electione locum habere decrevimus : Tres insuper regentes putavimus e re et commodo gymnasii fore qui juventuti instituendæ præsint, et præposito auxilientur : Primus præcepta eloquentiæ ex probatissimis auctoribus et Græcæ linguæ institutionem profitebitur, adolescentesque tum scribendo tum declamando exercebit, ut in utriusque linguæ facultate pares et ad philosophiæ præcepta capessenda majis idonei evadere possint : Proximus, dialecticæ et logicæ explicandæ operam dabit, earumque præcepta in usum et exercitationem proferet, idque ex probatissimis auctoribus, ut Cicerone, Platone, Aristotele de vita et moribus et politica administratione, quæ studia huic secundo regenti degustanda præbemus, et pro adolescentulorum captu enarranda, adjunget insuper elementa arithmeticæ et geometriæ in quarum principiis non parum momenti ad eruditionem parandum situm est, et ingenii acumen excitandum, his duobus, sallarii nomine, quinquaginta marcas in singulos assignamus levan. et percipien. quotannis ex redditibus et proventibus ad dictum Collegium ante præsentem erectionem pertinentibus : Porro tertius regens physiologiam omnem eamque quæ de natura est, auscultationem, utpote imprimis necessariam, quam diligentissime enarrabit ; geographiam etiam et astrologiam profitebitur, nec non generalem etiam chronographiam et temporum a condito mundo suppurationem, quæ res ad alias disciplinas et historiarum cognitionem non parum lucis adferet. Quoniam vero hujus tertii regentis opera ac laboribus colophonem philosophico studio imponi volumus ac pileo donato adolescentes ad graviora studia alacrius contendere ; qua etiam procuratio gymnasii, ejusque cura ad eam præcipue pertinebit in præpositi qualicunque absentia aut distractione, propter ecclesiæ Goveance administrationem et curam, eidem pro sallario concedimus libras monetæ nostræ quinquaginta annuatim levan. et percipien. ex redditibus et proventibus dicti Collegii qui ante hanc nostram erectionem prius ad dictum Collegium spectabant ; Tres autem hos regentes nolumus prout in reliquis regni nostri academiis consuetudo est, novas professiones quotannis immutare, quo fit ut, dum multa profiteantur, in paucis periti inveniantur : verum in eadem professione se exerceant ut adolescentes qui gradatim ascendunt dignum suis studiis et ingeniis præceptorem reperire queant : Quod si e re gymnasii fuerit, idque gymnasiarcha decreverit, mutare inter se provincias poterunt eorum electio, præsentatio, et admissio penes rectorem, decanum facultatis et gymnasiaracham esto, qui bona fide nostram institutionem secuti de quam optimis et doctissimis præceptoribus collegio providebunt, qui adolescentes docendo, scribendo, declamando, disputando quam diligentissime in literaria palaestra exerceant, potestas autem emendandi et corrigendi dictos regentes erit penes dictum gymnasiaracham cui etiam potestas erit eosdem collegio ejiciendi si post positis eorum officiis ter ut dictum est, admoniti, recipiscere noluerint, cognita tamen causa et exhibito consilio rectoris et decani facultatis. Porro, paupertatis cura habita, et quod multi præ inopia a bonis literis deterreantur adjunxi-
mus quatuor pauperes studentes quos bursarios vocant iisque assignamus victum

ex communibus fructibus dictæ ecclesiæ de Govane, et communi tabula dicti collegii, eos et paupertatis nomine commendatos esse volumus, quibus amici præ inopia suppeditare victum non queant, et ingenii præstantia et grammaticæ facultatis peritia valere, eorum præsentationem penes comitem a Morton consanguineum nostrum et tutorem charissimum ejusque heredes masculos succedentibus temporibus esse volumus: Quibus deficientibus penes legitimos quosque hæredes suos secundum tenorem novi infeofamenti dilecto nostro consanguineo et tutori prædict. desuper concesso prout in eodem latius continetur; admissionem vero et collationem dictorum bursariorum penes gymnasiarcham cuius erit curæ providere ne divites pauperum loco admittantur neve fuci alvearia depascant, sed eos in gymnasium recipere qui patriæ ornamento et ecclesiæ usui esse poterint; hos autem pauperes nostros humilitatis et obedientiæ exemplar esse volumus, et per omnia prœceptoribus morem gerere; quod nisi fecerint, potestatem facimus dicto gymnasiarchæ et prœceptoribus eos puniendi et pro ratione delicti, usque ad eorundem ejectionem e dicto collegio inclusivè, si propter eorum contumaciam id promeriti fuerint; eorum in collegium ingressus Calendis Octobris sit, permaneantque in studio literario et gymnasii sumptibus alantur totos tres annos cum dimideo, quod tempus idoneum judicamus, pro cæterarum academiarum regni nostri consuetudine ad studium philosophicum consummandum et lauream adipiscendam, quibus exactis novi bursarii provideantur, donec iterum ad metam decurrerint. **C**conomum autem et provisorem, hominem bonum et industrium requirimus cui salvus collegii sua ipsius longè sit potior is initio suæ administrationis, cautionem praestabit res Collegii salvas, fore seque bona fide administraturum; Penes eum erit proventus et redditus Collegii qualiscunque colligire, dicere diem debtoribus convenire in judicio nomine Collegii, et caetera legitima per agere; ejus erit tempestivè ex præceptorum arbitrio Collegio providere in iis quæ ad victimum pertinent et fori quotidie curam agere in iis emendis quæ ad Collegii sustentationem pertinent, is autem tenebitur in singulos dies rationem reddere emptorum et importatorum gymnasiarchæ et reliquis præceptoribus præsentibus ne qua in re minima fraus fiat Collegio; quotidianæ enim rationes animadversaria redactæ magno erunt familiae usui. Porro, præceptores ipsi, una tum œconomio tenebuntur rationem reddere administrationis quater in anno, rectori, decano facultatis et ministro urbis Glasguensis, qui operam dabunt calend. Octobri, calend. Februarii, calend. Maii, calend Augusti, ut quam exactissimo calculo omnia subducantur; quorum etiam conscientias appellamus, ut omnia recte et secundum nostram intentionem in dicto Collegio administrata esse videant et in ordinem sua auctoritate redigant et quater in annos singulos dietis rationibus subserbant, quæ tum solummodo autenticæ habebuntur; eorumque consilio quicquid fuerit residui sivi ex veteri erectione, sive ex hac nostra fundatione, id omne rentalibus probe examinatis et discussis, in necessarios Collegii usus et sarta tecta, tum Collegii, tum chori Govane, aliosque usus gymnasii non prætermittendos impendatur et distribuatur. Quoniam autem variis curis et occupationibus distrahi provisorem nostrum oportebit, ei sallarii nomine viginti libras monetæ nostræ per solvi jubemus, præter ea quæ necessario ad recipiendos Collegii proventus ab eodem impenduntur, quæ illi in rationibus deduci aequum est: victimum præterea honeste ex communi nostra tabula et ecclesiæ de Govane pro-

ventibus assignamus, ut rectius, liberalitate nostra invitatus, munere suo fungi queat ; Ad haec, gymnasiarchæ sive prœferti servum, sine cuius opera commode et honeste in Collegio degere non potest, volumus ex communi tabula et ecclesiœ de Govane proventu, ali ac sustentari ; coquo etiam et janitori victum et sex marcas annuatim in singulos attribuimus ; eosque (quorum eligendi et deprivandi jus apud primarium esto) et omnes fundatas personas hortamur et monemus ut pie christiane magnaue cum diligentia et fide suis officiis invigilant nostroeque expectationi ea in re satisfaciant. Studentes autem quos magno numero speramus passim ex toto hoc regno ad gymnasium nostrum confluxuros volumus quiete et pacifice degere, neminem civium verbo vel facto laedere, rectori gymnasiarchœ et regentibus morem gerere, sedulos esse in bonarum litterarum studiis, ut parentibus honori, ecclesiæ usui, et reipublicœ ornamento esse queant. Insuper cum Sathanæ Astum percipiamus nullibi non dantis operam ut juventutem ab evangelii professione ad plusquam cimerias Papismi tenebras abducat, districte mandamus, ut singuli qui in hanc nostram Academiam fuerint cooptati, fidei professionem edant eadem nimirum quae è dei verbo petita et transcripta a nobis in regni nostri conventibus edita atque publicata est, idque faciant semel ad minimum quotannis ut profligato humani generis hoste, collegium nostrum virtute eruditione et piis moribus efflorescat in Dei sempiternam gloriam quam nostra hac fundatione solummodo ob oculos nostros proposuimus, utpote unicam nostrarum omnium actionum metam : Volumus autem nostrum hoc collegium et academiam Glasguensem iis omnibus immunitatibus et privilegiis gaudere, quœ a majoribus nostris, aut nobis aut alias quovis modo concessa sunt ulli aliarum in regno nostro academiarum tam libere pacifice et quiete ac si eadem ab antiquis retro temporibus ultra hominum memoriam ulli obvenissent. Sit autem Deo Patri, Christo Jesu Filio, et Spiritui Sancto, omnis honor et gloria in omne aevum—Amen.—Quare mandamus et præcipimus archiepiscopo Glasguensi vel in ejus absentia cuicunque ministro intra diocesin. Glasguen. ad tradendum institutionem et possessionem rectoriæ et vicariæ de Govane ante dict. præfato collegio principali, magistris, regentibus, bursariis, servis et fundatis officiariis ejusdem, apud parochialem ecclesiam de Govane ut remaneant mortificatae omnibus temporibus affuturis sine ulla alia institutione aut possessione earund. aliquo tempore futuro suscipienda.—*In cuius rei testimonium* huic præsenti cartæ nostræ magnum sigillum nostrum apponi præcipimus, testibus Reverendo in Christo Patre Adamo Episcopo Orcadensi, commendatorio monasterii nostri sanctæ crucis prope Edinburgh ; dilectis nostris consanguineis Willielmo Comiti Mariscalli, Domino Keith ; Johanne Domino Glammis, Cancellario nostro ; Venerabili in Christro Patre Roberto, commendatorio nostri monasterii de Dumferlin, nostro secretario ; dilectis nostris familiaribus, consiliariis magistro Georgio Buanane Pensionario de Corsragwell, nostri secreti sigilli custode ; Joanne Bellendem de Auchnoule Milite nostræ Justiciariæ Clerico ; Magistro Jacobo M'Gill de Rankeillor Nather, nostrorum Rotulorum Registri ac consilii Clerico ; et Alexandro Hay nostræ cancellariae directore. Apud Dalkeith, decimo tertio die mensis Julii, Anno Domini millesimo quingentesimo septuagesimo, septimo, et regni nostri decimo.

Vera LAURENCE HILL, N. P.

(Sic Subsc^{r.})

Assero WILLIAM MEIKLEHAM, N. P.

